

भारत का राजपत्र **The Gazette of India**

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० २] नई दिल्ली, शनिवार, जनवरी १४, १९६७/पौष २४, १८८८
 No. 2] NEW DELHI, SATURDAY, JANUARY 14, 1967/PAUSA 24, 1888

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

नोटिस

NOTICE

नीचे लिखे भारत के असाधारण राजपत्र ३१ दिसम्बर, १९६६ तक प्रकाशित किए गये ।

The undermentioned Gazettes of India Extraordinary were published up to the 31st December, 1966 :—

Issue No.	No. and Date	Issued by	Subject
439	S. O. 4232, dated 28th December, 1966.	Election Commission of India	Designating the District Collector of each of the Districts in the State of Kerala as the District Election Officer of the District of which he is the District Collector.
440	S. O. 4233, dated 28th December, 1966.	Ministry of Commerce.	Corrigendum to S. O. No. 3966, dated 24th December, 1966.
441	S. O. 4234, dated 28th December, 1966.	Do.	Authorising Shri Sharaf Ali to take over the management of the Mewar Textile Mills Limited, Bhilwara.
442	S. O. 4235, dated 28th December, 1966.	Election Commission, India.	Amendments in the notification No. 36/66 (S. O. 3667), dated 1st December, 1966.

Issue No.	No. and Date	Issued by	Subject
443	S. O. 4036, dated December, 1966.	28th Ministry of Commerce.	Further amendment to the Exports (Control) Order 1962.
444	S. O. 4037, dated December, 1966.	29th Election Commission, India.	Designating the Additional District Magistrate of each District in the State of Orissa to be the District Election Officer for that district.
445	S. O. 4038, dated December, 1966.	30th Ministry of Finance.	Declaring the airport at Trivandrum as a customs airport for the unloading of imported goods and the loading of export goods.
446	S. O. 4039, dated December, 1966.	30th Do.	Regarding the dimension, design and composition of 5 paise coins.
	S. O. 4040, dated December, 1966.	30th Do.	Standard weight of the Coins of the denomination of 5 paise.
447	S. O. 4041, dated December, 1966.	30th Election Commission, India.	Further amendments in the notification No. 56/66 (S. O. 3667), dated 1st December 1966.
448	S. O. 4042, dated December, 1966.	30th Do.	Designating (i) the Deputy Commissioner of each of the districts in the State of Mysore other than Bangalore district as the district Election Officer for his district, and (ii) the Commissioner of the Corporation of City of Bangalore and the Deputy Commissioner of Bangalore district as the district Election Officers for that district.
449	S. O. 4043, dated December, 1966.	30th Do.	Designating (i) the Collector of each of the District in the State of Madras other than Madras City as the District Election Officer for his district, and (ii) the Commissioner of the Corporation of Madras as the District Election Officer for the Madras City.
450	S. O. 4044, dated December, 1966.	30th Ministry of Commerce.	Further amendment to the Export (Control) Order 1962.
451	S. O. 4045, dated December, 1966.	31st Ministry of Home Affairs	Delegation of powers under the Defence of India Rules, 1962 in relation the Mizo Hills District, to the Central Government Liaison Officer for Mizo Hills District.
452	S. O. 4046, dated December, 1966.	31st Ministry of Finance.	Amendment in the notification No. F.3/56/65-GC (ii), dated 20th December, 1965.

Issue No.	No and Date	Issued by	Subject
453	S. O. 4047, dated 31st December, 1966.	Ministry of Finance	Amendment in the Notification No. 196-Customs, dated 26th October, 1966.
453A	S. O. 4048, dated 31st December, 1966.	Ministry of Commerce	Amendment in the Notification No. S. O. 3605, dated 30th December, 1963.
454	S. O. 4049, dated 31st December, 1966.	Ministry of Home Affairs.	Delegation of functions of the State Government under the Police (Incitement to Disaffection) Act, 1922.

ऊपर लिखे असाधारण राजपत्रों की प्रतियां प्रकाशन प्रबन्धक, सिविल लाइन्स, दिल्ली के नाम मांगपत्र भेजने पर भेज दी जाएंगी। मांगपत्र प्रबन्धक के पास इन राजपत्रों के जारी होने की तारीख से 10 दिन के भीतर पहुंच जाने चाहिए।

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़कर) केन्द्रीय प्राधिकरणों द्वारा जारी किए गए विधिक आदेश और अधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 4th January 1967

S.O. 92.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951, the Election Commission hereby appoints, in addition to the officers appointed *vide* its Notification No. 434/POND/63(2), dated the 6th July, 1963, the Controller of Contributions, Villianur, as Assistant Returning Officer for the Parliamentary Constituency in the Union Territory of Pondicherry.

By Order,

[No. 434/POND/66(2).]

PRAKASH NARAIN, Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 6th January 1967

S.O. 93.—In exercise of the powers conferred by Section 3 of the Emigration Act, 1922 (VII of 1922), the Central Government hereby appoints Shri G. S. Padgaonkar, Superintendent, Regional Passport & Emigration Office, Bombay, to

be Protector of Emigrants, Bombay in addition to his own duties with effect from the 12th December, 1966 to the 13th January, 1967, vice Shri B. S. Mathur, Public Relations Officer (E) granted leave for this period.

[No. CPEO/15/66.]

[No. F. 3(33)V.IV/59.]

C. S. V. SUNDRAM, Attache (PVA).

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 3rd January 1967

S.O. 94.—In exercise of the powers conferred by sub-section (7) of Section 35 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank, hereby exempts the State Bank of India for the period from the 14th January, 1967 to the 13th January, 1970, both days inclusive, from the provisions of clauses (a) and (c) of sub-section (1) of Section 34 of the said Act in so far as they preclude the State Bank of India from—

- (i) continuing or realising the advances against the security of immovable property made by the Kamala Bank Ltd. and taken over by the State Bank of India under the terms and conditions of acquisition by the State Bank of India of the business of the Kamala Bank Ltd., sanctioned under sub-section (2) of the said Section 35 by the Central Government by an order in writing dated the 15th October, 1966; and
- (ii) making against the security of immovable property against which the advances referred to above have been made, such further advances as the State Bank of India may consider necessary or expedient for ensuring or facilitating the recovery of the advances made by the Kamala Bank Ltd. and realising such further advances.

[No. F. 4/26/66-SB.]

S.O. 95.—In exercise of the powers conferred by sub-section (7) of Section 35 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank, hereby—

- (a) directs that in its application to the conduct by the State Bank of India of the business acquired by it from the Bengal Duars Bank Ltd. under Section 35 of the said Act, the said Act shall apply as if for the words "other than companies with limited liability" occurring in sub-clause (d) of clause (i) of Section 33 of the said Act, the words "or of joint stock companies with limited liability registered in India" had been substituted; and
- (b) exempts the State Bank of India for the period from the 14th January, 1967 to the 13th January, 1970, both days inclusive, from the provisions of clauses (a) and (c) of sub-section (1) of Section 34 of the said Act in so far as they preclude the State Bank of India from—
 - (i) continuing or realising the advances against the security of immovable property made by the Bengal Duars Bank Ltd. and taken over by the State Bank of India under the terms and conditions of acquisition by the State Bank of India of the business of the Bengal Duars Bank Ltd., sanctioned under sub-section (2) of the said Section 35 by the Central Government by an order in writing dated the 15th October, 1966; and
 - (ii) making against the security of immovable property against which the advances referred to above have been made, such further advances as the State Bank of India may consider necessary or expedient for ensuring or facilitating the recovery of the advances made by the Bengal Duars Bank Ltd. and realising such further advances.

[No. F. 4/26/66-SB.]

S.O. 96.—In exercise of the powers conferred by sub-section (7) of Section 35 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank, hereby—

- (a) directs that in its application to the conduct by the State Bank of India of the business acquired by it from the Raikut Industrial Bank Ltd. under Section 35 of the said Act, the said Act shall apply as if for the words "other than companies with limited liability" occurring in sub-clause (d) of clause (i) of Section 33 of the said Act, the words "or of joint stock companies with limited liability registered in India" had been substituted; and
- (b) exempts the State Bank of India for the period from the 14th January, 1967 to the 13th January, 1970, both days inclusive, from the provisions of clauses (a) and (c) of sub-section (1) of Section 34 of the said Act in so far as they preclude the State Bank of India from—
 - (i) continuing or realising the advances against the security of immovable property made by the Raikut Industrial Bank Ltd. and taken over by the State Bank of India under the terms and conditions of acquisition by the State Bank of India of the business of the Raikut Industrial Bank Ltd., sanctioned under sub-section (2) of the said Section 35 by the Central Government by an order in writing dated the 15th October, 1966; and
 - (ii) making against the security of immovable property against which the advances referred to above have been made, such further advances as the State Bank of India may consider necessary or expedient for ensuring or facilitating the recovery of the advances made by the Raikut Industrial Bank Ltd. and realising such further advances.

[No. F. 4/26/66-SB.]

New Delhi, the 5th January 1967

S.O. 97.—Statement of the Affairs of the Reserve Bank of India as on the 30th December 1966

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital Paid Up	5,00,00,000	Notes	31,22,55,000
		Rupee Coin	9,17,000
Reserve Fund	80,00,00,000	Small Coin	3,81,000
National Agricultural Credit (Long Term Operations) Fund	115,00,00,000	Bills Purchased and Discounted :—	
		(a) Internal
		(b) External
		(c) Government Treasury Bills	270,96,34,000
National Agricultural Credit (Stabilisation) Fund	16,00,00,000	Balances Held Abroad*	17,31,36,000
National Industrial Credit (Long Term Operations) Fund	20,00,00,000	Investments**	167,10,04,000
		Loans and Advances to :—	
		(i) Central Government
		(ii) State Governments @	85,70,16,000

Deposits :—

(a) Government :—

(i) Central Government	• • • •	54,49,61,000
(ii) State Governments	• • • •	10,17,27,000

(b) Banks :—

(i) Scheduled Commercial Banks	• • • •	153,68,08,000
(ii) Scheduled State Co-operative Banks	• • • •	5,33,84,000
(iii) Non-Scheduled State Co-operative Banks	• • • •	50,02,000
(iv) Other Banks	• • • •	7,16,000
(c) Others	• • • •	273,50,05,000
Bills Payable	• • • •	41,09,70,000
Other Liabilities	• • • •	69,71,18,000
	Rupees	844,56,91,000

Loans and advances to :—

(i) Scheduled Commercial Banks†	• • • •	7,45,70,000
(ii) State Co-operative Banks‡	• • • •	171,06,61,000
(iii) Others	• • • •	2,08,06,000

Loans, Advances and Investments from National Agricultural Credit (Long Term Operations) Fund:—

(a) Loans and Advances to:—

(i) State Governments	• • • •	29,06,71,000
(ii) State Co-operative Banks	• • • •	13,26,73,000
(iii) Central Land Mortgage Banks	• • • •	••

(b) Investment in Central Land Mortgage Bank Debentures	• • • •	7,11,01,000
---	---------	-------------

Loans and Advances from National Agricultural Credit (Stabilisation) Fund:—

Loans and Advances to State Co-operative Banks	• • • •	3,80,63,000
--	---------	-------------

Loans, Advances and Investments from National Industrial Credit (Long Term Operations) Fund:—

(a) Loans and Advances to the Development Bank	• • • •	5,00,69,000
(b) Investment in bonds/debentures issued by the Development Bank	• • • •	••
Other Assets	• • • •	33,27,34,000

Rupees	• • • •	844,56,91,000
--------	---------	---------------

*Includes Cash and Short-term Securities.

**Excluding investments from the National Agricultural Credit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

@Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

†Includes Rs. 2,85,00,000 advanced to scheduled commercial banks against usance bills under section 17(4)(c) of the Reserve Bank of India Act.

‡Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 4th day of January, 1967.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 30th day of December 1966

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department .	31,22,55,000		Gold Coin and Bullion :—		
Notes in circulation	28,54,13,61,000		(a) Held in India	115,89,25,000	
Total Notes issued		288,53,36,16,000	(b) Held outside India	
			Foreign Securities	186,42,01,000	
			TOTAL		302,31,26,000
			Rupee Coin		88,13,31,000
			Government of India Rupee Securities		2494,91,59,000
			Internal Bills of Exchange and other commercial paper
TOTAL LIABILITIES		288,53,36,16,000	TOTAL ASSETS		288,53,36,16,000

Dated the 4th day of January, 1967.

P. C. BHATTACHARYYA,
Governor.

[No. F.3(3)-BC/66.]

V. SWAMINATHAN, Under Secy.

MINISTRY OF PETROLEUM AND CHEMICALS

Baroda, the 2nd January 1967

S.O. 98.—Whereas by notifications of the Government of India, issued under sub-section (1) of section 6 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act 1962, the right of user has been acquired in several survey Nos. of villages Adol, Hajat, Umarwada, Sarthan, Telva and Bhadkodra of Ankleshwar Taluka and village Digas of Hansot Mahal of Broach District of Gujarat State, for the transport of Petroleum from well to well and well to group gathering stations in Ankleshwar Oil Field, in Gujarat State.

And whereas the Oil and Natural Gas Commission has terminated the operations as referred to in the clause (1) of section 7 of the said Act on the dates mentioned hereunder against the survey Nos. shown in the schedule appended hereto.

Now therefore, under rule 4 of the Petroleum Pipelines (Acquisition of Right of User in Lands) rules 1963, the competent Authority, hereby notifies the said dates as the dates of termination of the operations referred to above. Any person interested in the said lands, may file a claim for compensation for damages or loss, if any, sustained by that person by reason of the exercise of the powers conferred by section 7, within sixty days, from the said date of termination of Operations before the Competent Authority at Elempeeco, Sayaji Gunj, Opp: College, Lokmanya Tilak Road, Baroda, in the Office of the Gujarat Pipelines Project, Oil and Natural Gas Commission. The claim for compensation shall be made in the prescribed form.

SCHEDULE

Name of Ministry	S.O. No.	Date of publication of Gazette Part II sec. 3 sub-section (ii)	Name of village	S. No.	Area	Date of termination of operation
1	2	3	4	5	6	7
Petroleum & Chemicals	2652	28-8-65	Adol.	615 }	26—5	25-5-66
				617 }		
				631(1)	13—5	
				631(2)	10—5	
				635	18—0	
				638	20—0	
				640(3)	7—5	
				641	—	
				642	5—0	
				643	5—0	
				644	17—0	
				532	23—0	
				531	12—5	
				527	20—0	
				525 }	10—0	"
				524 }		
				402	2—3	28-5-66
				413	5—0	"
				404	6—3	
				403	17—5	"
				405	1.6	
				349	17—5	"
				347	11.5	
				348	4.5	"
				91	6—4	5-9-66
	2506	20-8-66	"	609	1—0	"
				89/1&2	1—0	

1	2	3	4	5	6	7
	2506	20-8-66	Bhodkodra	122/2	6-2	5-9-66
				121	14-4	"
				120	8-2	"
				108/1	14-2	"
				108/2	6-0	"
				172/2	5-0	"
				102	6-4	"
				93	20-8	"
				91	1-4	"
				88(1)	6-2	"
				(2)	1-8	"
				87	13-8	"
				62	24-8	"
	2506	20-8-66	Umarwada	228/1	10-2	"
				227	15-2	"
				226/1	10-8	"
				226/2	7-2	"
				406	5-8	"
				407/2	2-0	"
					2-0	"
	2652	28-8-65	Piludra	248	4-2	28-5-66
				249	14-8	"
				244	15-5	"
				243	27-0	"
				235	15-5	"
	2652	28-8-65	Sarthan	65/3	23-0	24-5-66
				55/1	15-0	"
				74/2	13-0	"
				74/3	22-0	"
				75	7-5	"
				93/1	9-0	"
				93/2	8-0	"
				92	18-3	"
				91	19-5	"
				116	16-0	"
				117	14-0	"
				120	—	"
				121	24-0	"
				V.P.	27-0	"
	2652	28-8-65	Talva	29	25-7	20-5-66
				30/1	14-7	"
				28/1	14-1	"
				28/2	8-9	"
				22/2	8-4	"
				20	11-0	"
				19	9-5	"
				3	1-6	"
				18	14-7	"
				6	24-2	"
				7	3-1	"
				166/1	7-3	"
				166/2	13-2	"
				165	4-2	"
				18	14-7	"
	2506	20-8-66	Hajat	205	10-2	5-9-66
	2506	20-8-66	Digas	149	5-4	5-9-66
				142	10-8	"
				141	10-8	"
				140/2	6-0	"

1	2	3	4	5	6	7
				140/I	16—0	5-9-66
				151/P	2—0	"
				139	5—4	"
					10—0	"
				V. P.	2—6	"
				230/2	9—6	"
				229	10—0	"

[No. GPL/L/V/19-A.]

V. B. PATEL, Competent Authority,
under the Act for Gujarat State.

MINISTRY OF COMMERCE

CARDAMOM CONTROL

New Delhi, the 3rd January 1967

S.O. 99.—In exercise of the powers conferred by sub-section (1) of section 21 of the Cardamom Act, 1965, (42 of 1965), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Commerce No. S.O. 1825, dated the 9th June, 1966, namely:—

In the said notification, for the words "two kilograms", the words "one kilogram" shall be substituted.

[No. 29(27)Plant(B)/66.]

B. KRISHNAMURTHY, Under Secy.

MINISTRY OF HEALTH AND FAMILY PLANNING

New Delhi, the 2nd January 1967

S.O. 100.—In exercise of the powers conferred by sub-sections (2) and (3) of section 12 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following amendments in the Second Schedule to the said Act, namely:—

In the said Schedule,—

(i) in the entries relating to the United Kingdom, the entries relating to the following universities/institutions shall be omitted, namely:—

"University of Dublin,
National University of Ireland,
Royal College of Physicians of Ireland,
Royal College of Surgeons in Ireland,
Apothecaries' Hall of Dublin"

(ii) after the entry relating to the "Straits Settlements and Federated Malay States", the following entries shall be inserted, namely:—

"Republic of Ireland University of Dublin (h)	M.B.B. Ch.	Bachelor in Medicine and Bachelor in Surgery	U. Dubl.
	L. Med.,	Licentiate in Medicine	
	L. Ch.,	Licentiate in Surgery	
	M.D.,	Doctor in Medicine	
	M. Ch.,	Master in Surgery	
	M.A.O.	Master in Obstetric Science	
National University of Ireland (h)	M.B.,B. Ch.	Bachelor of Medicine and Bachelor of Surgery	N.U. Irel.
	M.D.	Doctor of Medicine	
	M.Ch.	Master of Surgery	
	M.A.O.	Master of Obstetrics	

Royal College of Physician of Ireland (h)	L.R.C.P. L.M. M.R.C.P. F.R.C.P.	Licentiate Licentiate in Midwifery Member Fellow	R.C.P. Irel.
Royal College of Surgeons in Ireland (h)	L.R.C.S. L.M. F.R.C.S.	Licentiate Licentiate in Midwifery Fellow	R.C.S. Irel.
Apothecaries' Hall of Dub- lin (h)	L.A.H.	Licentiate	A.H. Dubl.

foot-note (h)—When granted on or before the 17th June, 1964. This condition shall not apply in cases where these qualifications are already recognized on or before the 2nd January, 1967.

[No. F. 18-23/66-MPT.]

New Delhi, the 4th January 1967

S.O. 101.—Whereas the Patna University, Patna, has, in pursuance of the provisions of clause (d) of section 3 of the Dentists Act, 1948 (16 of 1948), elected Dr. S. M. Hassan, Director of Health Services, Bihar, Patna to be a member of the Dental Council of India with effect from the 30th March, 1965;

Now, therefore, in pursuance of the powers conferred by section 3 of the said Act, the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Health No. F. 3-2/62-MII, dated the 17th October, 1962, namely:—

In the said notification, under the heading "Elected under clause (d) of section 3", after serial number 10 and the entry relating thereto, the following serial number and entry shall be inserted, namely:—

"11. Dr. S. M. Hasan, Director of Health Services, Bihar Patna".

[No. F. 3-2/65-MPT.]

ORDERS

New Delhi, the 3rd January 1967

S.O. 102.—Whereas the Government of India in the Ministry of Health has, by notification No. 16-5/62-MI, dated the 23rd July, 1962, in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification M.D. awarded by the University of Georgetown, Washington, United States of America, for the purpose of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956) the Central Government hereby specifies a further period from the 13th October, 1966 to the 31st December, 1966, or so long as Dr. Eileen Niedfield, who possesses the said qualifications, continues to work in the Holy Family Hospital, Mandar, Ranchi District to which she is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. Eileen Niedfield shall be limited. Provided that Dr. Eileen Niedfield continues to be enrolled as medical practitioner in accordance with the law regulating the registration of medical practitioners for the time being in force in her country.

[No. F. 19-29/66-MPT.]

New Delhi, the 4th January 1967

S.O. 103.—Whereas the Government of India in the Ministry of Health has, by notification No. 16-5/62-MI, dated the 23rd July, 1962, made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification M.D. awarded by the

University of Georgetown, Washington, United States of America, for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies the period commencing from the date of issue of this Order to the end of June, 1967 or so long as Dr. Mary C. Zimmerman who possesses the said qualification, continues to work in the Kurji Holy Family Hospital, P.O. Sadaquat Ashram, Patna, to which she is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. Mary C. Zimmerman shall be limited. Provided that during this period the said doctor continues to be enrolled as medical practitioner in accordance with the law regulating the registration of medical practitioners for the time being in force in her country.

[No. F. 18-24/66-MPT.]

S.O. 104.—Whereas the Government of India in the Ministry of Health has, by notification No. 17-43/59-MI, dated the 9th January, 1961, made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification M.D. (University of Illinois, U.S.A.), for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies the period commencing from the date of issue of this Order to the end of February, 1968 or so long as Dr. Pauline Odessa Roberts who possesses the said qualification, continues to work in the Christian Medical College and Hospital, Vellore to which she is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. Pauline Odessa Roberts shall be limited. Provided that during this period the said doctor continues to be enrolled as a medical practitioner in accordance with the law regulating the registration of medical practitioners for the time being in force in her country.

[No. F. 19-31/66-MPT.]

P. C. ARORA, Under Secy.

MINISTRY OF EDUCATION

New Delhi, the 30th December 1966

S.O. 105.—In exercise of the powers conferred by clause (c) of sub-section (2) of section 5 of the University Grants Commission Act, 1956 (Act No. 3 of 1956), the Central Government hereby re-appoints Dr. D. S. Kothari as a member of the University Grants Commission with effect from 14th January, 1967 and until 5th July, 1971.

Under sub-section (3) of section 5 of the University Grants Commission Act, 1956, the Central Government also re-nominates Dr. Kothari as the Chairman of the University Grants Commission with effect from 14th January, 1967 and until 5th July, 1971.

[No. F. 9-47/66-U2].

P. N. KIRPAL, Secy.

New Delhi, the 31st December 1966

S.O. 106.—In exercise of the powers conferred by sub-section (1) read with clause (ii) of sub-section (2) of section 8 of the Hindi Sahitya Sammelan Act, 1962 (13 of 1962), the Central Government hereby appoints the Assistant Financial Adviser, Ministry of Education in place of the Deputy Financial Adviser, Ministry of Education as a member of the first Governing Body of the Sammelan and makes the following further amendment in the notification of the Government

of India in the Ministry of Education No. S.R.O. 1758 dated the 2nd June, 1962, namely:—

In the said notification, under the heading 'Members', under the sub-heading '(b) Representative of the Ministry of Finance', for the existing entry the following entry shall be substituted, namely:—

“(ii) Assistant Financial Adviser, Ministry of Education.”

[No. F. 30-15/66 H. 1].

N. S. BHATNAGAR, Under Secy.

शिक्षा मंत्रालय

नई दिल्ली, 31 दिसम्बर, 1966

एस० ओ० 107 .—हिंदी साहित्य सम्मेलन अधिनियम, 1962 का धारा 8 का उप-धारा (2) खण्ड (II) के साथ पढ़ी जाने वाला उपधारा (I) द्वारा प्रदत्त अधिकारों का प्रयोग करते हुए केन्द्र या सरकार उपविक्त सलाहकार, शिक्षा मंत्रालय के स्थान पर सहायक वित्त सलाहकार, शिक्षा मंत्रालय को सम्मेलन के प्रथम शासी निकाय के सदस्य के रूप में नियुक्त करता है और शिक्षा मंत्रालय, भारत सरकार को अधिसूचना सं० एस० आर० ओ० 1758 दिनांक 2 जून 1962 में निम्नलिखित और संशोधन करती है, अर्थात् :

उपयुक्त अधिसूचना में 'सदस्य' शीर्ष के अन्तर्गत उप शीर्ष (ख) वित्त मंत्रालय का प्रतिनिधि के अन्तर्गत विद्यमान प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि लिख दी जाए, अर्थात् :—

“(ii) सहायक वित्त सलाहकार, शिक्षा मंत्रालय ।”

[सं० एफ० 30-15/66 एच० 1.]

निरंकार स्वरूप भटनागर, अव्वर सचिव ।

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 28th December 1966

S.O. 108.—In exercise of the powers conferred by rule 10 of the Cinematograph (Censorship) Rules, 1958, the Central Government is pleased to appoint Shri V. S. Shroff, Secretary to the Chairman, as officiating Additional Regional Officer, Central Board of Film Censors, Bombay, with effect from the 13th December, 1966, vice Smt. V. Mulay appointed as Regional Officer, until further orders.

[No. F. 2/95/66-FC.]

S.O. 109.—In exercise of the powers conferred by rule 10 of the Cinematograph (Censorship) Rules, 1958, the Central Government is pleased to appoint Shri R. S. Saigal, Superintendent, as officiating Secretary to the Chairman, Central Board of Film Censors, Bombay, with effect from the 13th December, 1966, vice Shri V. S. Shroff appointed as Additional Regional Officer, until further orders.

[No. F. 2/96/66-FC.]

D. R. KHANNA, Dy. Secy.

MINISTRY OF MINES AND METALS

ERRATUM

New Delhi, the 2nd January 1967

S.O. 110.—In the notification of the Government of India in the Ministry of Mines and Metals S.O. No. 3471, dated the 8th November, 1966 published in part II, section 3, sub-section (ii) of the Gazette of India dated 19th November 1966, at pages 3148 to 3152—

At page 3149

In line 38,

For "Fatraj Block" read "Jatraj Block";

At page 3150

In line 46

For "433/1, Ka (P)", read "433/1 Ka (p)";

In lines 47 and 48

For "631 to 717" read "691 to 717";

At page 3151

In line 26

For "Plot numbers to be acquired in village Fatraj (V.S.)" read "plot numbers to be acquired in village Jatraj (V.S.)";

At page 3152

In line 14

For "738,/1, read "738/1".

[No. C2-22(18)/63.]

CORRIGENDUM

New Delhi, the 5th January 1967

S.O. 111.—In the notification of the Government of India in the Ministry of Mines and Metals, No. S.O. 3406 dated the 3rd November, 1966, published in Part II, Section 3, Sub-Section (ii) of the Gazette of India dated the 12th November, 1966, at pages 3088 to 3091,—

1. at page 3088

(i) in lines 15 and 16, for "the Coae Bearing Areas (Acquisition and Development) Act, 1957" read "the Coal Bearing Areas (Acquisition and Development) Act, 1957".

(ii) in line 20, for "the rights to mine, quarry, dig and search for" read "the rights to mine, Quarry, bore, dig and search for".

2. at page 3089

(i) in line 34 for "99(P)" read "899(P)".

(ii) in line 35, for "30(P)" read "930(P)".

(iii) in line 42, for "300,205,304" read "300,305,304".

3. at page 3091

(i) in line 1, for "lot numbers" read "Plot numbers".

(ii) in line 18, for "lot numbers to be acquired in village Fatudih" read "Plot numbers to be acquired in village Jatudih".

(iii) in line 25, for "village Farma" read "village Jarma".

[No. C2-20(12)/64.]

RAM SAHAY, Under Secy.

DEPARTMENT OF COMMUNICATIONS**(P. & T. Board)***New Delhi, the 3rd January 1967*

S.O. 112.—In exercise of the powers conferred by sections 42 and 74 of the Indian Post Office Act, 1838 (6 of 1898) the Central Government hereby **makes** the following rules further to amend the Indian Post Office Rules, 1933, namely:—

1. These rules may be called the Indian Post Office (First Amendment) Rules, 1967.

2. In rule 215 of the Indian Post Office Rules, 1933 for sub-rule (1) the following rules shall be substituted; namely:—

“(1) Gratuity shall be payable to the masters of ships, not being mail ships, in respect of postal articles and mail bags or other containers received by them for conveyance on behalf of the Post Office at the following rates, namely:—

(a) Letter mails and empty bags shall be payable at the gross general cargo rates as existing on the 1st October, 1966, subject to a reduction of 25 per cent. In the case of shipments to U.S.A. the payments shall be made at the non-contract rate as existing on the 1st October, 1966, less 25 per cent thereof. On the lines where only the net general cargo rate is quoted, payments shall be made on such net rates as existing on the 1st October, 1966, less 15 per cent thereof.

(b) Parcel mail shall be paid for at two-thirds the rates applicable to the letter mail.

(1A) 16 bags of letter mail or 11 bags of parcel mail shall be equivalent to one shipping ton of 40 cubic feet volume.”

[No. 20/9/58-CF.]

I. J. BURMAN, Director (Mails).

MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION**(Department of Labour and Employment)***New Delhi, the 3rd January 1967*

S.O. 113.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as M/s. Ratna Talkies Munuswami Naidu Road, Tenali, Guntur District (Andhra Pradesh State) have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment with effect from the 1st January, 1967.

[No. 8(75)/66-PF.II.]

S.O. 114.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs South Kanara Village Industries Association, Car Street, Mangalore-1 have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the 1st day of December, 1966.

[No. 8(73)66-PF.II.]

New Delhi, the 6th January 1967

S.O. 115.—In pursuance of clause (a) of sub-section (1) of section 5A of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints with effect from the 13th January, 1967, the Additional Secretary to the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), as the Chairman of the Board of Trustees (Central Board) and makes the following further amendment in the notification of the Government of India in the late Department of Social Security No. S.O. 1156 dated the 1st April, 1965, namely:—

In the said notification for the entry against serial number 1, the following entry shall be substituted, namely:—

"The Additional Secretary to the Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), New Delhi".

[No. 12(5)63-P.F.II.]

DALJIT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 3rd January 1967

S.O. 116.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, No. 2, Calcutta, in the industrial dispute between the employers in relation to the Toposi Colliery, Post Office Toposi, District Burdwan, and their workmen, which was received by the Central Government on the 26th December, 1966.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 CALCUTTA

REFERENCE NO. 26 OF 1966

PARTIES:

Employers in relation to the Toposi Colliery, Dt. Burdwan,
and

Their workmen.

PRESENT.

Shri S. K. Sen, Presiding Officer.

APPEARANCES:

On behalf of employers—Shri S. S. Mukherjee, Advocate.

On behalf of workmen—Shri Parimal Das Gupta.

STATE: West Bengal

INDUSTRY: Coal Mines.

AWARD

By order No. 6/37/65-LRII, dated 22nd April 1965, the Government of India referred for adjudication an industrial dispute between the employers in relation to the Toposi Colliery, Dist. Burdwan, and their workmen in respect of the matter mentioned in the following schedule:

"Whether the action of the management of Toposi Colliery in dismissing Shri Mahendra Mahato, Pick miner is justified? If not, to what relief is he entitled?"

2. The charge against Mahendra Mahato, a pick miner at Toposi colliery, was that he was absent without leave from 21st August 1964 to 20th September, 1964. On 21st September 1964 he came and wanted to join his work at the colliery, but he was not permitted to join, and he was served with a charge-sheet on that very day for absence for the aforesaid period without taking leave or written permission from an appropriate authority. The workman concerned showed cause by a letter dated 22nd September 1964 wherein he stated that he had taken leave from the authorities of the company, and that he was surprised when on 21st September,

1964 when he came to join, the Labour Welfare Officer served him with a chargesheet. The explanation was not considered satisfactory and he was notified that an enquiry would be held on 30th September 1964 at 8.30 a.m. The Enquiry committee was appointed by the manager with Shri D. Dey, Asstt. Manager and Shri D. N. Kar, Labour Welfare Officer. The enquiry committee found Mahendra Mahato guilty of the charge against him and recommended dismissal. The manager who agreed with the recommendation forwarded the papers to the Director-in-charge for his approval. The Director gave his approval on 2nd October 1964 and on 3rd October 1964, the dismissal order was passed on the workman concerned.

3. Mahendra Mahato was a member of the Union, the Colliery Mazdoor Sabha and the Vice-President of the Union, Robin Chatterjee, took up his cause and sent a complaint to the Conciliation Officer, Central Raniganj. There were sittings before the Conciliation Officer but there was no agreed settlement. So the matter is now before the Tribunal.

4. The case of the union on behalf of the workman concerned is that the workman had taken leave from the management for one month from 21st August 1964 to 20th September 1964 and that when he came to resume his duties, he handed over his leave pass as was the practice, but he was not given joining slip but was falsely chargesheeted for being absent without leave. The union alleged that the company had grudge against the workman because of his lawful trade union activities intended to ameliorate the grievances of the workmen of the colliery. The ground was also taken that the order of dismissal was bad because it was not approved by the Owner or Agent or by the C.M.E.

5. At the hearing before the Tribunal, Mahendra Mahato deposed as witness No. 2 for the union. He said that the Labour Welfare Officer, D. N. Kar, had granted the leave to him and that he received a slip regarding the grant of leave; and that when he came to join he produced the leave slip to the Labour Officer but the Labour Officer sent for Gopal Babu, the time keeper, and handed over the slip of him, and then instead of giving a joining slip, gave him a chargesheet. Shri D. N. Kar deposed as witness No. 1 for the management. He stated that it was not his business to issue the leave slip but the duty of the time keeper. He wholly denied the suggestion that he had granted leave to Mahendra Mahato and handed the slip to him. He also proved the papers of the enquiry which was held jointly by himself and by the Assistant Manager, the papers being marked Exts. F and G.

6. Shri Das Gupta has urged on behalf of the union that since the workman made allegations against D. N. Kar, the Labour Welfare Officer, it was against principles of natural justice that D. N. Kar should have been appointed to the Enquiry Committee and should have held the enquiry and found the workman concerned guilty. It appears however that in his reply to the chargesheet, Ext. 2, dated 22nd September 1964, the workman did not make that allegation against the Labour Welfare Officer, namely that he had taken leave from the Labour Welfare Officer and that he had given his leave slip on return to the Labour Welfare Officer. He merely stated that he saw the Labour Welfare Officer on 21st September 1964 and that the Labour Welfare Officer gave him the chargesheet. He did not say from whom he had got leave, but merely stated that the authorities (Kartripakha) had granted the leave to him. In cross-examination before the Tribunal, Mahendra Mahato admitted that Gopal Babu, the time keeper of the colliery, usually issued slips regarding leave, though he claimed that he received the slip from the Labour Babu. In the course of the statement at the domestic enquiry however, he did not make such a claim. He stated that he had taken leave before going home but he admitted that he did not have the leave slip with him. He did not say that he handed over the leave slip either to Labour Babu or to the Time-keeper. The Time-keeper Gopal Babu was examined on behalf of the management in the domestic enquiry, and he stated that Mahendra Mahato did not make any application for leave either before he left or from his village home. In the circumstances, there is no substance in the argument of Mr. Das Gupta that the company ought not to have appointed the Labour Officer to hold enquiry against Mahendra Mahato. Further, it appears that the domestic enquiry was held in accordance with the usual procedure and no unfairness therein is apparent. Under the Standing Orders of the company, a workman is liable to dismissal for unauthorised absence for 10 days or more. As regards the contention that the management was displeased because of Mahendra's union activities, the only evidence produced is that Mahendra also signed a memorial on 11th May 1964, of which a copy is Ext. 7, protesting against the difficulties of miner because the coal seam at pit No. 8 was mixed with black stones and chips. Before the Tribunal,

Mahendra stated that he had worked for two years. At the domestic enquiry, he spoke of service for over one year. This was therefore no case of removing a senior workman to get new hand, and I find no reason to think that the management had a vendetta against the workman because he signed the memorial dated 11th May, 1964.

7. Mr. Das Gupta argued that the Manager was not competent to issue the chargesheet as he could not pass an order of dismissal without the approval of the Owner or the Agent or the C.M.E. and that no approval from the Owner or Agent or C.M.E. had in fact been obtained. I must hold however that the manager who has to control the administrative side of the colliery and to see that the Standing Orders are enforced, is the authority to issue chargesheets. The management proved that Bibhuti Bhusan Pal, Director-in-charge, who had granted his approval to the order of dismissal *vide* Ext. G, was appointed as the nominated owner by a resolution of the Board of Directors of the colliery and he was the Director-in-charge. Mr. Das Gupta has urged that he was not one of the owners or in any case one of the major owners. But in any case, since he was appointed the nominated owner by the Directors who represented all the owners, it must be said that he was the Agent of the owners and therefore his approval to the order of dismissal was sufficient.

8. I must find, therefore, that the action of the management of Toposl Colliery in dismissing Mahendra Mahato, Pick miner, cannot be held to be unjustified and the Pick-miner, therefore, is not entitled to any relief.

Dated, the 22nd December, 1966.

Sd/- S. K. SEN,
Presiding Officer.
[No. 6/37/65-LRII.]

S.O. 117.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the Chirimiri Colliery of Messrs. Chirimiri Colliery Company (Private) Limited, Chirimiri and their workmen, which was received by the Central Government on the 29th December, 1966.

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT (CENTRAL)
AT JABALPUR**

Dated, Jabalpur December 24, 1966

PRESENT:

Shri G. C. Agarwala, Presiding Officer.

ADJUDICATION CASE NO. 22 OF 1966 (BOMBAY)

ADJUDICATION CASE NO. 6 OF 1966 (JABALPUR)

In the matter of an industrial dispute in relation to Chirimiri Colliery of Messrs. Chirimiri Colliery Company (Private) Limited, Chirimiri and the workmen.

APPEARANCES:

For employers—Shri J. K. Choudhry, Law Secretary of Central India Coal-fields Mining Association.

For workmen—Shri Gulab Gupta, General Secretary, M.P. Colliery Workers Federation.

INDUSTRY: Colliery

DISTRICT: Chirimiri.

AWARD

By Notification No. 8/12/65-LRII, dated 8th March, 1965 Ministry of Labour, Employment and Rehabilitation referred the following matter of dispute as stated in the Schedule to the order of reference to the Central Government Industrial Tribunal, Bombay.

SCHEDULE

Whether the action of the management of Chirimiri Colliery Company (Private) Limited in terminating the services of Sarvashri Kamta Thakur and Nathulal, Shotfirers, and offering them other jobs without protecting their emoluments and other conditions of service is proper and justified? If not, to what relief are they entitled?

The proceedings remained pending before the said Tribunal from 12th March, 1965 till 24th September, 1966 whereafter it was transferred to this Tribunal by Notification No. 8/141/66 LRIL, dated 17th September, 1966.

The parties filed their written statements before the Bombay Tribunal. The management had also filed their rejoinder before the said Tribunal. The workmen filed their rejoinder before this Tribunal. The proceedings before this Tribunal had to be conducted ex-parte once against the workmen on 20th October, 1966, but before the award could be recorded, the proceedings were reopened on the application of the workmen and the case has now been enquired on merits. The workmen filed 8 documents, Exts. W/1 to W/8. The employers filed seven documents, Exts. E/1 to E/7. Both parties have examined one witness each. The workmen examined Sri Ramanik Lal, Secretary of the Chirimiri Colliery Branch of M.P. Colliery Workers Federation which sponsored the dispute, as W.W/1. The employers examined Sri K. B. Sharma, Personnel Officer of the management, as E.W./1.

The dispute is simple and facts are practically admitted. Both S/Sri Kamta Thakur and Nathulal were old employees of the Company for about 20 to 22 years and were employed as Shot Firers. Nathulal had possessed underground Sirdar Certificate which made him eligible to work as Shot-firer also. Kamta Prasad had Shot Firer Certificate. These certificates are issued under Regulation 27 of the Coal Mines Regulations 1957 periodically after five years by the Chief Inspector of Mines on medical examination. The holder has to be free from deafness, defective vision or any other infirmity, mental or physical, likely to interfere with the efficient discharge of duties. Both these workmen are unocular persons. In spite of this infirmity they had been given such certificates in the past. In 1954 the Regional Inspector of Mines by a letter, dated 30th March, 1956 (Copy Ex. W/2) drew attention of the Manager that Sri Nathulal being unocular should not be employed as underground Shot-firer and he should be given some job on the surface. Since his certificate had been certified without any such condition on 6th May, 1954 the management took no action thereon. Both these persons were examined for the periodical check up on 6th September, 1964. In the certificate issued this time to both the workmen in the end it was added that they were fit to work on surface only. These certificates are Ex. E/3 and E/5. On the basis of this, the management terminated the services both of Nathulal and Kamta Thakur on 6th October, 1964 and paid them one month's salary in lieu of notice, obviously by way of discharge. The Union seems to have approached the Chief Inspector of Mines to reconsider the directions and the Chief Inspector in its reply dated 2nd November, 1964 (Copy Ex. W/5) stated that the Government had decided that in the interest of safety it was not desirable to employ unocular persons below ground. The Union was advised to approach the management for alternative job on the surface. The Union protested by communication, dated 21st December, 1964 (Ex. W/7) but to no avail, with the result that the matter was taken up in the conciliation. During the conciliation proceedings it appears from the report of the R.L.C. that the management on humanitarian ground was prepared to offer alternative jobs on weekly paid basis, there being no job of Shot-firer on surface. For Nathulal they offered the job of Timber Mistry as a weekly paid staff on the same service conditions as for other mistries. To Kamta Thakur they offered the post of Coal Cutter in Cat. III. Since these offers were not acceptable to the Union because they operated to the disadvantage of the workmen the conciliation failed to bring about a settlement. It may be mentioned that during the pendency of this reference, as the letter of the management Ex. W/8 would show, Nathulal has been employed as Timber Mistry purely as an interim measure by the management as a weekly paid employee.

The main argument of the Union is that under Regulation 27 Chief Inspector of Mines could not impose a condition while issuing a certificate that these unocular persons were fit to work on surface only and the management should have treated the certification as a valid one and ignoring this condition of the wordings in their certificates, should not have terminated the employment. The argument is ill conceived. That is a matter between the holder of the certificate and the Chief Inspector of Mines. It is the duty of the person concerned to

obtain a valid certificate before he could be competent to remain in employment. The scheme of the Regulations shows that it is for the workmen concerned to satisfy by his eligibility and competency before the Chief Inspector of Mines. The certificate has to be re-issued periodically after medical check up every five years. If the Inspector of Mines on certain directions of the Government had decided to issue a qualified certificate of fitness on surface only it is not the fault of the management and the management cannot be blamed for the action of the Chief Inspector of Mines. With such a qualified certificate the management was bound not to employ the workmen and they had no alternative but to terminate the employment there being no job on surface for shot-firers. They ignored the directions contained in the letter of the Regional Inspector of Mines once in 1956 (Ex. W/2) because the certification of 1954 and 1959 as recorded in the certificate of Nathulal (Ex. W/1) did not specify the qualifying word now added in the certificate dated 6th September, 1964. But upon it has been incorporated in the certification, dated 6th September 1964 in the certificates of both these workmen, the hands of the management are completely tight and they had no option but to terminate the services of the workmen. There is no allegation of mala fides or victimisation much, less any proof of it. The conduct of the management had been consistently bonafide and humanitarian. Being an open cast mine, they had no job for surface as Shot-firers. With the best of intentions and motive, they offered employment to both these workmen during conciliation proceedings which naturally were not so advantageous to the workmen as of Shot-firers. The management cannot be compelled to safe-guard the emoluments and other conditions of service while offering the alternative employment which were bound to be less advantageous to the workmen.

The result is that the issue under reference must be answered in affirmative. The workmen concerned S/Sri Kamta Thakur and Nathulal are not entitled to any relief. No order for costs.

G. C. AGARWALA,
Presiding Officer.
[No. 8/12/65-LRII.]

Dated, the 24th December, 1966.

New Delhi, the 4th January, 1967

S.O. 118.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, No. 2, Calcutta, in the industrial dispute between the employers in relation to the Toposi Colliery, Post Office Toposi, District Burdwan and their workmen, which was received by the Central Government on the 28th December, 1966.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, CALCUTTA.

REFERENCE No. 81 OF 1966

PARTIES:

Employers in relation to the Topsi Colliery, Dst. Burdwan,

AND

Their workmen.

PRESENT:

Shri S. K. Sen, Presiding Officer.

APPEARANCES:

On behalf of employers—Shri S. S. Mukherjee, Advocate.

On behalf of workmen—Shri Parimal Das Gupta.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By Order No. 6/50/65-LR.II dated 5th February, 1966, the Central Government referred for adjudication an industrial dispute between the employers in relation to the Toposi Colliery, Distt. Burdwan, and their workmen in respect of the matters specified in the following schedule:

“Whether the dismissal of Sarvashri Sarabjit Rajbhar, Syamdeo Rabidas, Jhabbu Harijan and Kataru Harijan, pick miners, by the management of the Toposi Colliery, with effect from the 28th December 1964, was justified? If not, to what relief are the workmen entitled?”

2. The four pick miners, namely Sarabjit Rajbhar, Syamdeo Rabidas, Jhabbu Harijan and Kataru Harijan along with two other workmen Kartik Roy and Ramnaresh Khatik were working in the third shift of 17th November, 1964, i.e., from the mid night of 17th November, 1964 to 8 a.m. of 18th November, 1964, at 4th south level of pit No. 8 and 9. The six workmen were allotted 3 working faces by a Mining Sirdar, N. K. Paitandi. They asked for a separate working face for each but they were told that without reference to the manager it was not possible to do that. But after the Mining Sirdar had left, the 6 workmen left their respective working faces and started cutting the pillar at the 4th south level. The Mining Sirdar, N. K. Paitandey came at about 5 a.m. on 18th November, 1964 and saw them cutting the pillar and asked them to stop doing that illegal act but they gave a defiant reply. The mining sirdar informed the over-man in-charge, Balaram Sarkar, who sent a phone message to the manager, and under the manager's instruction the overman in-charge went down the mine and saw the 6 workmen there and saw also the condition of the pillar. Balaram Sarkar stated in the course of his evidence in the domestic enquiry that he actually saw the 6 workmen still cutting a portion of the pillar when he arrived at about 5.30 a.m., and the workmen even then adopted a defiant attitude, stating that as they were not given independent working faces or ayatan they were cutting some coal from the pillar. Chargesheets were drawn up against all the 6 workmen, and they were served on the 4 workmen with whom we are concerned in this case as well as on Ramnaresh Khatik when they came for their night shift on 18th November, 1964. Kartik Roy could not be served with the chargesheet as he was not found in his quarters, neither did he come to join his shift; and a registered letter containing the chargesheet addressed to him was returned unserved. Accordingly, the enquiry against him was held ex parte. The other 5 men attended the domestic enquiry which was held on 27th November, 1964 by the three officers appointed for the purpose by the manager, namely Shri K. Dey and Shri D. Dey, Assistant Managers and Shri D. N. Kar, Labour Welfare Officer. They held an enquiry on 27th November, 1964. But, on 28th November, 1964 the workmen submitted petitions addressed to the manager stating that the witnesses for the management were permitted to consult one another and then make their statements and that the workmen were not allowed to cross examine witnesses; and that when they protested, the officers rebuked them and joked amongst themselves and that the enquiry in this fashion were carried on for 3 hours from 9 a.m. to 2 p.m., and that they could have no faith in the fairness of such an enquiry. The manager after receiving the complaints called for the enquiry officers and after getting their version the manager replied to each of the 4 workmen on 5th December, 1964, stating that there was no substance in any of their allegations, but still he gave an opportunity for the enquiry to be held again for the satisfaction of the workmen. These replies are Ext. 8 to 8C. At the same time fresh notices were issued on the workmen, Ext. 9 to 9C, stating that they were to appear before the enquiring officers on 7th December, 1964 at 9 a.m. along with their witnesses.

3. On 7th December, 1964 the enquiry could not be held as according to the management the workmen proceeded against failed to appear. On the same date, 7th December, 1964 the manager addressed again a letter, Ext. 10 to 10C stating that they neglected to avail of the opportunity given to them to appear before the enquiry committee and that this showed still more clearly that they had filed a baseless complaint against the enquiry held on 27th November, 1964. The workmen in turn addressed a letter, Ext. 11, which is dated 7th December, 1964 but which was received by registered post by the manager on 14th December, 1964 stating that though they appeared before the enquiry committee on 7th November, 1964, the enquiry officers sent them back saying that they were very late. Thereupon on 14th December, 1964 the manager gave another opportunity to the workmen proceeded against to appear before the enquiry committee on 22nd November, 1964 at 9 a.m., vide notices, Ext. 12 to 12C. On that day the 4 workmen as well as Ramnaresh Khatik appeared before the committee and made some further statements and they were given the opportunity to cross examine the witnesses already examined. Thereafter the enquiry officers submitted their report on 25th December, 1964, recommending dismissal in the case of 4 workmen with whom we are concerned in this case, namely, Sarabjit Rajbhar, Syamdeo Rabidas, Jhabbu Harijan and Kataru Harijan and also in the case of Kartik Roy against whom the enquiry was held ex-parte. Ramnaresh Khatik was also found guilty of the charges but in view of extenuating circumstances, namely, because the evidence showed that he had almost been forced by the other workmen to join them in cutting the pillar, and he had made before the enquiry committee a full and frank statement of what had happened, the committee recommended suspension for 10 days. The manager agreed with the recommendation of the enquiry committee

and after obtaining the approval of the director in-charge, he passed orders of dismissal on 28th December, 1964.

4. The case of the union on behalf of the workmen is that these 4 pickminers took a leading part in union work and that of them Syamdeo Rabidas and Kataru Harijan were members of the committee of the unit at Toposi colliery; that they had been joining other pick miners in submitting petitions and memorials to the manager and to the Regional Labour Commissioner and other authorities asking for remedy of their grievances as to non-supply of measurement slips, non-payment of money for lead and empty pushing, non-supply of picks by the management, late supply of tubs compelling them to stay underground beyond their shift of 8 hours and so on; and that the management was displeased with them and was looking for an opportunity to get rid of them. The union's further case is that the workmen concerned had a quarrel with the Mining Sirdar, N. K. Paitandy, as the latter refused to supply measurement slips during the third shift or night shift of 17th November, 1964, and therefore on 18th November, 1964 at about 10 or 11 a.m. they submitted a complaint, Ext. 3, to the management, the complaint being received by Shri D. N. Kar, Labour Welfare Officer; and that as a counter-blast, false chargesheets were served on the same date on the workmen concerned when they went to join their shift just before midnight of 18th November, 1964. The further case of the workmen is that the enquiry held was not properly conducted and there was violation of principles of natural justice as the workmen were not allowed the opportunity to cross examine witnesses and to examine their own witness and the evidence was not interpreted to them.

5. A number of joint petitions or memorials and a number of petitions submitted by Jhabbu Harijan and Kataru Harijan individually were proved to show that these workmen were ventilating their grievances from before. Ext. 16 is a joint petition addressed to the manager dated 25th May, 1964 complaining about non-receipt of employment cards; Ext. 17 and 17A filed in July 1964 are individual petitions by Jhabbu Harijan and Kataru Harijan respectively for employment cards; Ext. 18 is a joint petition to the Manager dated 4th August, 1964 which was made among others by Kataru Harijan and Syamdeo Rabidas, complaining about the non-allotment of proper working faces or ayatan in the night shift of 3rd August 1964; Ext. 19 is an individual petition by Kataru Harijan complaining about non-receipt of measurement slip; Ext. 19 is an individual petition by Kataru Harijan complaining about non-receipt of measurement slip; Ext. 20 is an individual petition by Kataru Harijan dated 3rd October, 1964 complaining about late supply of tubs; Ext. 22 is a joint petition dated 17th September, 1964 addressed to the Conciliation Officer (C), Raniganj complaining about the non-supply of picks by the management to the pickminers. From these petitions it may be accepted that these workmen and Kataru Harijan in particular were jointly or individually petitioning the manager as well as Government officers for redress of some grievances. But this fact by itself is of no importance if it is found that the domestic enquiry against the workmen was held in accordance with the principles of natural justice. Shri Parimal Das Gupta has urged that the chargesheets were a counter-blast to the workmen's complaint dated 18th November, 1964 (Ext. 3) about the failure of the Mining Sirdar to grant measurement slips to the workmen for the night shift of the 17-18th November 1964. Shri Das Gupta has urged that this petition was presented before the Labour Welfare Officer by 11 a.m. of 18th November, 1964, whereas the chargesheets were served on the workmen afterwards, just before midnight of 18th November 1964, and that this would go to show that the chargesheets were a counter-blast. But if the workmen had already been found cutting the side of a pillar instead of cutting their working faces, and the Mining Sirdar and Overman in-charge had already detected this and found fault with them, then the workmen knew that chargesheets would be served on them, and Ext. 18 might have been filed in anticipation to prepare a ground for defence. Moreover, a perusal of Ext. 3 shows that these workmen admitted clearly that they had cut the face of the pillar instead of their own working faces. They stated that in the night shift of 17th November, 1964 the Mining babu, Paitandy, gave them working faces at place where there was bad smelling water standing and that they asked for work somewhere else and thereupon the Mining babu pointed out the pillar and said that they might cut coal from that pillar and then 7 pickminers, namely the 4 workmen concerned in this case, viz., Sarabjit Rajbhar, Syamdeo Rabidas, Jhabbu Harijan and Kataru Harijan and 3 others, viz., Ramnaresh Khatik, Kartik Roy and Biswanath Harijan cut coal from the pillar; and that after the shift when they asked for measurement slip the mining babu refused to give slips and abused them. It is however quite unlikely that the mining sirdar or munshi would direct these people to cut the face of a pillar, for the mining sirdar must be very well aware that this would be against the mining regulations, and it would lead to his own dismissal if it were known that he had

ordered the pick miners to do so. Thus, in the very complaint, Ext. 3, the workmen proceeded against practically admitted the charge against them, namely that they had illegally cut a portion of the pillar instead of working at the working faces allotted to them. At the enquiry, 8 witnesses were examined including the mining sirdar, N. K. Paitandy and Balaram Sarkar, Overman. Other witnesses examined were bailing mazdoors and coal cutters who either saw these accused cutting the pillar or were called by Paitandy to come and see that the accused were doing an illegal act. Ramnaresh Khatik in his statement said that 6 men (omitting Biswanath Harijan from the seven) were given 3 ayatans or working faces by the mining sirdar, that they asked for separate working faces but the mining sirdar said that only by arrangement with the manager he could do so from the following day; that thereafter the mining sirdar left, and that after sometime Syamdeo called him, and Kataru called Kartik Roy from the ayatan, and Syamdeo said that if they all cut coal from the pillar together nothing could happen to them, and that Ramnaresh Khatik protested that he would be charge-sheeted but he was abused, and that after sometime the In-charge babu came and saw them all cutting coal from the face of the pillar. The mining sirdar was examined as already stated but no question was put to him suggesting that he had permitted the workmen to cut the face of the pillar itself. As has already been stated, this is very unlikely. As regards the case of the workmen that they were not given opportunity to cross examine the witnesses, it does appear that on 27th November, 1964 there was no cross examination of the witnesses, but at the resumed hearing on 22nd November, 1964 all the witnesses for the management were cross examined at least by Syamdeo Rabidas who apparently conducted the case on behalf of all the workmen proceeded against. Shri Parimal Das Gupta has urged that in view of the manager's letters Ext. 8 to 8C and notices, 9 to 9C, a *de novo* enquiry ought to have been held and not merely a further enquiry on the basis of evidence already recorded on 27th November, 1964. But, in the notices, Ext. 9 to 9C, the workmen were merely directed to appear before the enquiry committee again on 7th December, 1964 along with their witnesses. In the letters, Ext. 8 to 8C, it was stated that though the allegations were baseless the manager had decided that the enquiry should be held again for the satisfaction of the workmen. This did not necessarily indicate a *de novo* enquiry. A further enquiry which was actually held and in which the witnesses were produced for cross examination and were actually cross examined, and the workmen given an opportunity to make further statements, which many of them actually made, was sufficient compliance with the order of the manager. Taking the enquiry as it was held on 27th November, 1964 and 22nd December, 1964, I must hold that the enquiry was conducted in accordance with the principles of natural justice and there was sufficient evidence in support of the finding of the enquiry officers that the accused were guilty of the charges against them. There is nothing to show that any witness was sought to be examined on either 27th November, 1964 or 22nd December, 1964 for the defence.

6. Shri Parimal Das Gupta has urged that the charges were cumbrous and mentioned that by their act the workmen had caused permanent injury to the mine and endangered safety of the mine and further that they caused severe damage to the property of the employer. It has been urged that these charges were not proved. These however are consequential effects of cutting a pillar. If the pillar was cut by these 6 persons as proved in the case, naturally the safety of the mine might be endangered and thereby permanent injury caused to the mine and to the property of the employer. There is, therefore, no substance in this contention of Shri Das Gupta although I may observe at the same time that it would have been sufficient to include in the chargesheets only two charges, namely one relating to the cutting of the pillar and another relating to the defiance of the order of the mining sirdar and the overman.

7. Finally, Shri Das Gupta has urged that the manager had no power to issue the chargesheets as he could not dismiss anybody without obtaining approval from the owner or agent or the Chief Mining Engineer, and that no approval in this case to the order of dismissal was obtained from the appropriate authority. I do not find any substance in this contention. The manager is the administrative head of the colliery and has to enforce the Standing Orders and naturally it is he who should issue chargesheets for misconduct committed by any workman in the mine. Approval to the order of dismissal was obtained from Shri Bihuti Bhushan Pal, now dead, who was appointed as nominated owner by a resolution of the Board of Directors. As such, he was the agent of all the owners and it cannot be said that there was no approval to the order of dismissal by the appropriate authority mentioned in the Standing Orders.

8. I find, therefore, that the four pickminers concerned, namely, Sarvashri Sarabjit Rajbhar, Syamdeo Rabidas, Jhabbu Harijan and Kataru Harijan were

rightly dismissed by the management with effect from 28th December 1964, and they are, therefore, not entitled to any relief.

(Sd.) S. K. SEN,
Presiding Officer.

Dated, the 24th December, 1966.

[No. 6/50/65-LRII.]

New Delhi, the 6th January 1967

S.O. 119.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, No. 2 Calcutta, in the industrial dispute between the employers in relation to the Toposi Colliery of Messrs Associated Nandi Collieries Ltd., P.O. Toposi, District Burdwan and their workmen, which was received by the Central Government on the 29th December, 1966.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, CALCUTTA

REFERENCE No. 101 of 1966

PARTIES:

Employers in relation to the Toposi Colliery, Dist. Burdwan,

AND

Their workmen.

PRESENT:

Shri S. K. Sen, Presiding Officer.

APPEARANCES:

On behalf of Employers—Shri S. S. Mukherjee, Advocate:

On behalf of Workmen—Shri Parimal Das Gupta.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By order No. 8/135/65-LRII dated 29th April, 1966, the Central Government referred for adjudication a dispute between the employers in relation to the Toposi colliery, Dist. Burdwan, and their workmen in respect of the matter mentioned in the following schedule:

"Whether the dismissal of S/Shri Ram Lagan Harijan and Chandradip Dosad, Machine Loaders by the management of Toposi Colliery with effect from the 1st July, 1965 was justified, If not, to what relief are the workmen entitled?"

2. The management's case is that Ram Lagan Harijan and Chandradip Dosad, the two machine loaders, were working at No. 3 incline on 2nd June 1965 in the first shift which is from 8 a.m. to 4 p.m.; that the two machine loaders at about 3-30 p.m. jointly prevented a group of coal cutters from taking empty tubs allotted to them by the Assistant mining sirdar. Dipak Narayan Ghose, although the machine loaders were already supplied with empty tubs; and that when Dipak N. Ghose ordered them not to behave like that, they defied his order for some time and this caused delay in loading and tramming; chargesheets in identical words were drawn up on 3rd June 1965 and served on 4th June 1965; the two machine loaders submitted their replies dt. 5th June 1965 (Ext. 2 and 2A) which were received by the management on 7th June 1965; therein both of them denied the allegations and stated that false chargesheet was being submitted against them as they were active members of the Colliery Mazdoor Sabha, Toposi branch. It may be mentioned that the replies were drafted by Robin Chatterjee, Vice-President of the Colliery Mazdoor Sabha on behalf of the workmen. The management naturally was not satisfied with the replies given and served notice stating that the enquiry would be held on 11th June 1965 at 8 a.m. in the office of the Labour Welfare Officer and a committee consisting of K. C. Dey, Assistant Manager, and D. N. Kar, Labour Welfare Officer was appointed to hold the enquiry. The enquiry was held on 11th June 1965 as scheduled. On 12th June 1965 the

two machine loaders complained against the fairness of the enquiry vide their letters, Ext. 4 and 4A, wherein they stated that the statements of witnesses had not been recorded as stated by them but the Labour Officer had caused statements to be recorded to fit the case of the management, and further that they were rebuked when they protested. The management replied by letters dated 23rd June 1965, Ext. 5 and 5A, that the allegations against the fairness of the enquiry were baseless. The enquiry committee submitted its report on 16th June 1965 to the manager finding that the charges were proved and recommending dismissal. The manager after obtaining the approval of the director-in-charge passed orders of dismissal on 1st July 1965 on the two machine loaders.

3. The case of the union on behalf of the two workmen is that Ram Lagan and Chandradip were leading members of the union and they had been taking prominent part for remedy of their grievances as to arrear lead payment, issue of measurement slips, insanitary conditions of their quarters, and so on; and that the management was displeased with them and wanted to get rid of them; that on 2nd June 1965 during the shift because their place of work was too hot, they requested the officers to get some fans moving to cool the atmosphere and they also mentioned their grievances regarding drinking water and measurement slips, and a complaint to that effect was submitted to the manager by a letter dt. 3rd June 1965, Ext. 13, and that the management took advantage of this incident to submit false charges against two workmen. The union's further case is that the enquiry held on 11th June 1965 was not a fair one as the evidence was not correctly recorded and was not read out and explained to the workmen concerned. At the hearing it has also been urged that the charges were vague and that on that account also the enquiry cannot be held to be a fair enquiry.

4. As regards the letter, Ext. 13, dated 3rd June 1965, the evidence of Ram Lagan, who deposed as a witness before the Tribunal is that when he and other machine loaders went to deliver the same in the morning of 3rd June 1965 before joining their shift, the manager refused to accept the same and therefore the letter was sent by registered post. Accordingly, the original letter corresponding to Ext. 13 which is a copy, could not have been received by the manager before the chargesheet was drawn up, which was on 3rd June 1965, even though the chargesheet was served on 4th June 1965. In his deposition before the Tribunal, Ram Lagan also stated that he had complained about the working place in incline No. 3 becoming too hot and about failure to supply water at the working place and that for this reason the letter, Ext. 13, was addressed to the manager. He admitted, however, that there was some incident over the distribution of tubs in the shift on 2nd June 1965. He stated that on 2nd June 1965, seven machine loaders including himself and Chandradip were working at the same place and they received 14 tubs which were distributed at the gopal or junction, and that pick miners working at a distance of 4 or 5 pillars from the loaders received 8 tubs, and that when the machine loaders were loading their tubs, 2 coal cutters or pick miners came and asked for tubs saying that they did not receive tubs and that munshi babu had asked them to take tubs from the machine loaders; that Ram Lagan asked them to call the munshi babu there, and then they went away and did not come back.

5. Thus the case of the management relating to trouble over the distribution of tubs cannot be said to be altogether baseless.

6. There however appears one defect in the chargesheet, Ext. 1 and 1A, namely that therein it was only stated that the two machine loaders had prevented a group of coal cutters from taking empty tubs allotted to them and abused them when the coal cutters did not give up their tubs; but the names of the coal cutters who are concerned in the incident were not given. Shri Das Gupta has urged that the management kept the way open for bringing as witnesses the coal cutters who were fully prepared to support the case of the management, and that no notice of the witness likely to be examined was given to the machine loaders proceeded against and this made the enquiry unfair. It has been held that where a domestic enquiry is properly held and the finding is based on evidence, the tribunal cannot interfere but an enquiry cannot be said to be properly held unless among other things the workman concerned has been informed clearly of the charge levelled against him, vide AIR 1963 SC 1914 (Sur Enamel and Stamping Works Limited V. its workmen). Shri S. S. Mukherjee, appearing for the management has urged that the enquiry was fairly held because it appears from the record, Ext. A, that all the witnesses examined for the management were cross examined at length by each of the two machine loaders proceeded against, and the machine loaders also not only gave evidence themselves but also examined two witnesses to prove their case namely, Ram Chandra Show and Sripat Rajbhar; and he has referred to a statement made by the Assistant Mining Sirdar, D. N. Ghose, in cross examination where he stated that when he allotted the tubs there were coal cutters, Chota Samsuddin, Badal

Bauri, Tejo Das, Jhantu Das, Kesho Das and others. Now, these 5 coal cutters named were just the 5 witnesses brought by the management to the enquiry in addition to the Assistant Mining Sirdar, D. N. Ghose, and therefore it is not surprising that D. N. Ghose should have mentioned them in the course of his deposition at the domestic enquiry. The evidence of Ram Lagan Harijan before the tribunal is that at the enquiry, apart from Dipak babu, the Assistant Mining Sirdar, he saw certain new persons whose names were not known to him and that the two coal cutters who had come on 2nd June 1965 to demand tubs from them were not present there. It has been urged on behalf of the management that the omission to give names of all or some of the coal cutters with whom the two machine loaders concerned had a quarrel was almost an irregularity and that it does not vitiate the result of the enquiry which was otherwise fairly held. But the case of the union is that these two machine loaders were leading workers of the union and had been giving some trouble to the management by submitting numerous petitions about the grievances of the machine loaders and other workmen. The union filed copies of some joint petitions or individual petitions which were admitted on behalf of the management. Ext. 8 is a joint petition dt. 15th January 1964 by which 20 workmen complained to the manager about the failure to record their attendance in full during the week ending 6th January 1964. Ext. 9 is a petition dt. 23rd September 1964 addressed to the manager stating that on 22nd September 1964 they went to join their duties but the Assistant Manager passed an order of lay off and that in the circumstances they were entitled to full *hazira* for that day. The Assistant Manager might have been justified in stopping work on that day because of some trouble with the haulage but the fact remains that both Ram Lagan and Chandradip along with other persons thus petitioned to the manager for what they considered their dues. Ext. 10, is a petition addressed to the manager dt. 4th February 1965 wherein it was stated that the *ayatan* where Ram Lagan and others were to work on 4th February 1965 was fenced off by the Mining *munshi* and so they could not cut coal and that in the circumstances they were entitled to full *hazira* for the day. Ext. 12 is a joint petition dt. 17th August 1964 addressed to the Regional Labour Commissioner, Chief Inspector of Mines and other Government officers complaining about the bad condition of *dhowras* or quarters provided to the machine loaders and other workmen, e.g., leaking roof, want of electric light or other light, non-clearance of jungle, non-supply of water and so on. Robin Chatterjee said in the course of his deposition before the tribunal that after this petition had been filed, the Inspector of Mines came and held an enquiry, and that among others Ram Lagan and Chandradip also spoke to the Inspector about the grievances. As regards the evidence of Robin Chatterjee and Ram Lagan that they are office bearers or committee members of the union, Shri Mukherjee has pointed out that no documentary evidence in support of this contention was filed. The fact remains however that they are members of the union and they had been filing petitions about certain grievances and the management, therefore, had some reason for being displeased with them. In the circumstances, non-mentioning of the names of the coal cutters with whom the two machine loaders were supposed to have had a quarrel over the distribution of tubs, may not unreasonably be regarded as a device by the management to leave the way open to bring obedient witnesses; and in the circumstances it cannot be said that the enquiry was a fair one. It may be pointed out that the overman to whom the assistant mining sirdar, Dipak Ghose is supposed to have complained about the conduct of the machine loaders then and there was not examined as a witness at the domestic enquiry.

6. I therefore hold that the dismissal of S/Shri Ram Lagan Harijan and Chandradip Dosad, Machine Loaders, by the management of Toposi Colliery with effect from 1st July 1965 was not justified. I therefore direct their reinstatement within one month from the date of the publication of the award and I direct for the period of non-employment from 1st July 1965 to the date when they are permitted to join, each of the loaders will receive half of his total wages.

(Sd.) S. K. SEN,

Presiding Officer.

Dated, 26th December, 1966.

S.O. 120.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal No. 2 Calcutta, in the industrial dispute between the employers in relation to the East Satgram Colliery, P.O. Jaykaynagar, District, Burdwan, and their workmen, which was received by the Central Government on the 31st December, 1966.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2. CALCUTTA

REFERENCE No. 39 OF 1966

PARTIES:

Employers in relation to the East Satgram Colliery, District Burdwan,

AND

Their workmen.

PRESENT:

Shri S. K. Sen, Presiding Officer.

APPEARANCES:

On behalf of employers—Shri S. S. Mukherjee, Advocate and Shri S. D. Pandey, Sr. Personnel Officer.

On behalf of workmen—Shri N. R. Roy of I.N.T.U.C. and Shri Keshab Banerjee, Genl. Secretary, Colliery Mazdoor Union.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By Order No. 6/19/65-LRII, dated 1st July, 1965, the Central Government referred for adjudication an industrial dispute between the employers in relation to the East Satgram Colliery, Dist. Burdwan, and their workmen in respect of the subject matter mentioned in the following schedule:

“Whether the termination of service of Shri Sheo Shankar Singh, Register keeper of East Satgram Colliery by way of retrenchment was justified? If not, to what relief is the workman entitled?”

2. According to the case of the employers, Shri Sheo Shankar Singh was recruited as a Register Keeper at East Satgram Colliery on 17th June, 1961 for the first time in connection with the preliminary work for opening of Mithapur seam. He was placed in charge of recording the attendance of the mazdoors who worked for digging earth for sinking the pit in order to reach the Mithapur seam. Raising of coal from Mithapur seam started in 1963 and continued upto July 1964, when working of the Mithapur seam was closed down. Thereafter Shri Sheo Shankar Singh who was the Register keeper engaged in recording the attendance of underground workers and three other Register keepers similarly engaged in respect of Mithapur seam were found surplus. The other Register keepers who were recruited after Sheo Shankar Singh were retrenched by the end of July 1964 and they were paid the retrenchment benefits prescribed by law. Shri Sheo Shankar Singh was also informed that he would be retrenched but he requested the manager as well as the agent that he might be kept on for some time more so as to enable him to find a suitable job elsewhere. But at the end of September, 1964, it was found that Sheo Shankar Singh could not any longer be retained and therefore the management prepared a seniority list of the register keepers as on 22nd September, 1964 and Sheo Shankar Singh who was the junior most was tendered a letter informing him that his services were terminated with effect from 1st October, 1964 and he was asked to collect his dues from the office. Sheo Shankar Singh refused to accept the letter when tendered to him through Peon book on 30th September, 1964 and therefore the notice was sent by registered post with a forwarding letter on 1st October, 1964. Sheo Shankar Singh did not also turn up to draw his dues including retrenchment compensation and therefore on 5th October, 1964, the money amounting in all to Rs. 693-54 P. was sent by money order and at the same time an intimation letter was sent by registered post. The letter was received by Sheo Shankar Singh but the money order was refused. Sheo Shankar moved his union, the Colliery Mazdoor Union, which addressed a letter on 3rd October, 1964 to the

Conciliation Officer (C), Raniganj. There was however no amicable settlement before the Conciliation Officer and the matter has now come before the Tribunal.

3. The case of the union is that the owners, Messrs East Satgram Coal Company Private Limited, own three collieries, namely the East Satgram Colliery, Darula Colliery and North Brook Colliery and that Sheo Shankar Singh was first employed in 1960 at Darula Colliery and he was transferred thereafter to East Satgram Colliery and was working as a clerk there without any blemish; that a branch of the Colliery Mazdoor Union was started at East Satgram Colliery in 1964 and Sheo Shankar took a prominent part in organising the branch of the Union and was elected President of the branch of the Union at East Satgram; and that because of his union activities the management was displeased and therefore retrenched him although there were other clerks junior to him in the service of the owners. The union also took the ground that the termination of service of Sheo Shankar was otherwise illegal because an industrial dispute between the employers and their workmen was then pending before the Conciliation Officer, Raniganj and also because in terminating the service of Sheo Shankar Singh the employers did not follow the provisions of the Industrial Disputes Act and the rules made thereunder.

4. Sheo Shankar Singh wanted to assert that he was employed as an attendance clerk, classed in grade II under the Coal Award, and not as a Register keeper classed as grade III in the Coal Award. The classification of the clerical staff by the Coal award is shown in Appendix XVI at pages 112 and 113 of Volume II of the award of All India Industrial Tribunal (Colliery Disputes). But Sheo Shankar is described as a register keeper of East Satgram colliery in the order of Reference itself. Further he admitted that in the B form register for 1964, Ext. E1, when he signed against his name, the description "Register keeper" might be there though he claimed that he did not pay any particular attention to the same. Clearly he knew that he was described as a register keeper in the B form Register when he signed against his name, and there can be no doubt that he was employed as a register keeper which is a post in grade III according to the classification mentioned. As regards the question whether he was first appointed at Darula, Sheo Shankar Singh's own evidence is that he was first appointed in July 1960 and was transferred in February or March 1961 to East Satgram colliery, where he worked as a Store clerk for 4 months, and was then put to work as attendance clerk for recording the *hazira* of mazdoors. But in the written statement filed by the union on behalf of the workmen, it was mentioned that Sheo Shankar Singh was transferred to East Satgram colliery in July 1961 and it was not mentioned that he worked as a Store clerk for any time. Therefore, the evidence given before the Tribunal by Sheo Shankar regarding his transfer in February or March 1961 and his working as a Store clerk for 4 months cannot be accepted as true. In the written statement it was mentioned that he was appointed at Barulla colliery in 1960 but the month of his appointment was not given. If he was appointed in July 1960 as claimed by him in his deposition, he would have completed 4 years' service before September 1964 and should therefore have received 4 increments from his starting basic pay. The basic pay of the clerical staff employed in the collieries in different grades was fixed by the Labour Appellate Tribunal which heard appeals against the award of the All India Industrial Tribunal (Colliery Disputes). Paragraph 263 of that decision mentions the scale of basic pay for clerks of grade III as Rs. 43-3-82 so that if he had received 4 increments his basic pay would have been Rs. 55. Now, though Sheo Shankar did not admit that his basic pay when he was retrenched was Rs. 52, he admitted that his total remuneration was Rs. 126; actually it was Rs. 126-37 P. *vide* Ex. C which shows the details of his dues when he was retrenched. Shri A. P. Sharma, Group Agent of East Satgram colliery, was examined on behalf of the management stated that the basic pay of Sheo Shankar when he was retrenched was Rs. 52. Shri S. S. Mukherjee for the management explained how the figure of Rs. 126-37 P was made up this includes Rs. 52 as basic pay, Rs. 50 as dearness allowance, Rs. 14-62 as variable dearness allowance and Rs. 9-75 as interim wage increase. There can be no doubt, therefore, that the basic pay which Sheo Shankar was drawing was Rs. 52 at the time of his retrenchment and thus he had received only 3 increments from his starting pay of Rs. 43. This supports the case of the management that he was first appointed on 17th June, 1961 and not the case of the union that he was first employed about the middle of 1960.

5. Sheo Shankar himself admitted that the working of the Mithapur seam had to be closed down in 1964 before he was retrenched. The date of closing down was proved by A. P. Sharma who said that the closure took place in July 1964; the precise date appears in the report as to closure which was submitted

to the Chief Mining Inspector, Ext. F, the letter is dated 24th October, 1964 but the prescribed form which was enclosed along with the letter shows that the date of closure was 27th July, 1964. A. P. Sharma's evidence is that there were 4 register keepers who used to take the hazira of the underground workers who used to work in 3 shifts in relation to Mithapur seam while it was working, and that 3 of the register keepers, appointed after Sheo Shankar Singh, were retrenched by the end of July 1964, and that Sheo Shankar was kept on for sometime more and that ultimately it was necessary to discharge him as there was no work for him and, therefore, the letter, Ext. A dated 30th September, 1964, was tendered to him informing him that his services would be terminated from the following date, 1st October, 1964, and that he should collect all his dues from the office on 1st October, 1964, between 7 A.M. and 12 NOON or between 2-30 P.M. and 5-30 P.M.; Sheo Shankar says that no such letter was tendered to him on 30th September, 1964, but the fact of tender is sufficiently proved by A. P. Sharma who proved the entry in the Peon Book, Ext. G, showing that it was tendered on 30th September, 1964, but was refused by the addressee. Ext. B is the copy of the letter dated 1st October, 1964, along with which the original of Ext. A was sent by registered post to Sheo Shankar Singh. Sheo Shankar admits that he received the registered letter on 3rd October, 1964. The union wrote the letter, Ext. 2, to the Conciliation Officer (C), Raniganj, complaining against the retrenchment of Sheo Shankar Singh on 3rd October, 1964. From this fact it would appear that Sheo Shankar must have had knowledge of the order of retrenchment earlier, as it is unlikely that if he received the information only on receiving the registered letter by post on 3rd October, 1964, he could have seen the General Secretary, Shri Keshab Bannerjee, at Asansol and got him to write the letter on that very day. It must be found that when the letter, Ext. A, was tendered on 30th September, 1964, even though Sheo Shankar refused to accept it, he was aware that his service was being terminated from the following date.

6. It has been urged that he was not the junior most clerk in service at that time and Sheo Shankar deposed that at least 4 clerks were appointed after him, namely, Shri S. K. Banerjee, Shri B. S. Bhattacharjee, Shri Dinanath Pandey and Shri A. K. Saha. The management admitted that these clerks were recruited later but contended that they were clerks having special qualification or clerks in superior grade and not belonging to the category to which Sheo Shankar belonged. Thus, from the evidence of A. P. Sharma it appears that S. K. Banerjee was a general clerk in grade II drawing a basic pay of Rs. 83 when he was appointed; that B. S. Bhattacharjee was a clerk in a special grade being a trained Bradma operator, and that Dinanath Pandey and A. K. Saha, Lamp clerks though they belonged to grade III according to the classification of the coal award, had a special training in the maintenance of electric cap lamps and therefore their services could not be dispensed with. As required by Rule 77 of the rules under the Industrial Disputes Act, the employers prepared a list of workmen of the particular category from which retrenchment was contemplated, i.e., the category of register keepers. Ext: 8 is that list prepared on 22nd September, 1964, showing that Sheo Shankar was the junior most of the register keepers then in service. Shri N. R. Roy, appearing for the union, has urged that all the clerks should be regarded as belonging to one category. That is, however, not the mode adopted by the Coal award as is clear from the note to Appendix XVI at page 113, Vol. II of the Coal award. There the lamp clerks, register keepers, munshis and sirdars are described as certain categories of grade II, clerks. It is, therefore, clear that the term 'category' as used in Rule 77 does not include the clerks as a whole irrespective of whatever grade they belong, but means clerks belonging to a particular grade and classification like register keepers. Accordingly, it must be held that the action of the management in selecting Sheo Shankar for retrenchment was quite correct.

7. As regards the argument that Sheo Shankar was chosen for retrenchment because of his union activities and that therefore there was victimisation or unfair labour practice, I find no substance in the same. Admittedly, there was another union functioning at East Satgram colliery from before, namely Colliery Mazdoor Congress. According to Sheo Shankar, a branch of the Colliery Mazdoor Union was started at East Satgram colliery in July, 1964 and office bearers were elected on 1st October, 1964, and thereupon a list of office bearers and committee members of the East Satgram branch of the union was sent to the manager, vide Ext. D. A. P. Sharma, on behalf of the management, stated that he never became aware of the new union, Colliery Mazdoor Union, beginning to function at East Satgram colliery before he received the letter, Ext. D on 7th October, 1964 and that he was not aware of any meeting held on 1st October, 1964. In the written statement of the Union as well as in the evidence of Sheo Shankar it is

stated that the general meeting was held on 2nd October, 1964 for electing office bearers for the branch of the union at East Satgram, but Ext. D is dated 1st October, 1964. Therefore there is this discrepancy as to date, and this lends support to the argument of Shri Mukherjee that the list, Ext. D, was prepared without calling any general meeting at all. The union produced a register of membership, Ext. 1, showing that some members were recruited from July 1964. This register has been challenged by Shri Mukherjee saying that it could have been written up at one sitting. Even assuming that the Colliery Mazdoor Union began to recruit members from July, 1964 and that the register of membership, Ext. 1, is a true document, there is no evidence to show that the branch of the Colliery Mazdoor Union took any step which might be offensive to the management. No copy of any memorial or petition to the Labour Inspector or other authorities enumerating the grievances and asking for their removal has been produced. In the circumstances, even if the management knew before 30th September, 1964 that Sheo Shankar was taking an active part in organising a branch of the new union and that it was not on 7th October, 1964, after the retrenchment order had already been passed, that the management first came to know of it, there appears to be no reason whatsoever why the management should choose to proceed against Sheo Shankar for his union activities.

8. As regards the point that the retrenchment was illegal as a conciliation proceeding was pending before the Conciliation Officer, Raniganj, no evidence has been adduced in support of that claim. Shri Roy has, however, urged that the retrenchment was in contravention of the provisions of Section 25F of the Industrial Disputes Act because the section provides that no workman shall be retrenched until he has been paid the notice wages where no notice for one month is given and has also been paid at the time of retrenchment compensation equivalent to 15 days' average pay for every completed year of service or part of service in excess of 6 months and notice has been served in the prescribed manner on the appropriate government. In this connection, Shri Roy has referred to a decision of the Supreme Court, *State of Bombay V. Hospital Mazdoor Sabha*, (1960 1 LLJ 251), where the Supreme Court observed that the condition precedent for the retrenchment of a workman is that retrenchment compensation be paid and no workman can be retrenched until the condition has been satisfied. Shri Roy has urged that in this case the retrenchment notice was given by Ext. A on 30th September, 1964, telling Sheo Shankar that his service was terminated with effect from 1st October, 1964, and he was not paid his dues before the retrenchment but was asked to draw his dues on 1st October, 1964, between certain hours. Now, to comply with the provisions of Section 25F it is not necessary that actual payment should be made before the retrenchment takes effect. Mere tender is sufficient, as was held by the Supreme Court in another case, *Delhi Transport Undertaking V. Industrial Tribunal* (AIR 1965 SC 1503). There it was pointed out that in many cases the employer can only tender the amount before dismissal but cannot force the employee to receive payment before dismissal becomes effective, for the employee may refuse payment in order to maintain continuity of service; and making tender before the order of dismissal becomes effective is sufficient compliance. This was a ruling in connection with an order of dismissal under Section 33 of the Industrial Disputes Act, but the language in Section 25F is similar and there is no doubt that the same principle will apply. Shri Roy's contention is that even the tender was not made on 30th September, 1964, before the retrenchment took effect and therefore the order is bad. It appears however to me that it is sufficient if the tender is made about the time when the retrenchment order is to take effect. The colliery works in three shifts and the third shift of a day ends at about 8 a.m. of the following day. The termination was to take effect from 1st October, 1964; so it was sufficient that the employee was asked to take his dues between 7 a.m. to 12 noon and 2-30 p.m. to 5-30 p.m. on 1st October, 1964, i.e., it was open to the employee to take his dues before 8 a.m. of 1st October, 1964. In the *Hospital Mazdoor* case no payment was made at all and the Tribunal expressed the opinion that the retrenchment order was good because the employee could enforce the payment of his dues by an application under Section 25(I) (now replaced by Sec. 33C). The Supreme Court held that in a retrenchment order the workman should not be left to file a separate application to recover his dues but the money must be paid to him before the retrenchment becomes effective. In view of the facts of the present case, it must be held that there was proper and legal tender of the legal dues under Section 25F of the Act.

9. Accordingly, I hold that the termination of service of Shri Sheo Shankar Singh, Register keeper, East Satgram colliery by way of retrenchment was justified. The workman is, therefore, not entitled to any relief except that he may now draw the sum of money (Rs. 623.54 P) which was tendered to him

but was refused by him, and the management should make the payment as soon as the workman asks for it.

No order is made as to costs.

(Sd.) S. K. SEN,

Dated, 28th December, 1966.

Presiding Officer.

[No. 6/19/65-LRII.]

S.O. 121.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, No. 2 Calcutta, in the industrial dispute between the employers in relation to the Toposi Colliery of Messrs Associated Nandi Collieries Limited, Post Office Toposi, District Burdwan, and their workmen, which was received by the Central Government on the 29th December, 1966.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, CALCUTTA

REFERENCE NO. 99 OF 1966

PARTIES:

Employers in relation to the Toposi Colliery, Dist. Burdwan,

AND

Their workmen.

PRESENT:

Shri S. K. Sen, Presiding Officer.

APPEARANCES:

On behalf of employers—Shri S. S. Mukherjee, Advocate.

On behalf of workmen—Shri Parimal Das Gupta.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By order No. 8/133/65-LRII dated 29th April 1966, the Central Government referred for adjudication a dispute between the employers in relation to the Toposi colliery, Dist. Burdwan, and their workmen in respect of the matter mentioned in the following schedule:

“Whether the dismissal of Sarvashri Jahir Khan and Jumana Kohar, Machine Loaders, by the management of Toposi Colliery with effect from 19th June, 1965 was justified? If not, to what relief are the workmen entitled?”

2. Both Jahir Khan and Jumana Kohar were machine loaders employed at Toposi colliery and had served there for 4 or 5 years. They were on the night shift of 26th May 1965 commencing from midnight of 26th May 1965 to 8 a.m. to 27th May 1965. Towards the end of the shift according to the management, 6 tubs were allotted from the golas or junction off which 5 were given to the loaders and one to a pickminer Chuna Majhi. When Chuna Majhi started to push his tub towards his working face, Jahir Khan and Jumana Kahar, machine loaders, objected. When Chuna Majhi asserted his right to take the tub as the munshi babu had allotted the tub to him, Jahir Khan and Jumana Kohar abused him and caught hold of him. Jahir Khan caught him by the neck and Jumana Kahar hit him with a stick. Chuna Majhi shouted and other people came up. Like the In-charge babu Abani Chakravorty, coal cutter Rosan Majhi, coal cutter Nur Mohammad and others. They intervened and saved Chuna Majhi from serious injury. Chargesheets were served on Jahir Khan and Jumana Kahar on 31st May 1965 for abusing and assaulting the coal cutter Chuna Majhi and for wilful damage to the work in progress. Reply was submitted by the two machine loaders on 2nd June 1965 (Ext. 2 and 2A). Then notice of the date of hearing was given and on the notified date, 7th June 1965, the enquiry was held by the two officers appointed for the purpose, namely D. N. Kar, Labour Welfare Officer and K. C. Dey, Assistant Manager. They found the charges proved and recommended dismissal. Both Jahir Khan and Jumana Kahar submitted protest letters. Ext 4 and 4A, alleging that the enquiry was not fairly conducted. But the

manager replied on 17th June 1965 vide letters, Ext. 5 and 5A, that the allegations were baseless. Thereafter on 19th June 1965, orders for dismissal was passed on the two machine loaders after obtaining the required approval from the Director-in-charge.

3. The case of the union is that these workmen were leading union workers and that they were both committee members, Johir Khan being Vice-President of the Toposi colliery unit of the union, Colliery Mazdoor Sabha; and that both of them had been submitting petitions to the manager as well as to Government officers jointly with other workers for redress of their grievances and for this reason they had incurred displeasure of the management, and the management had, therefore, falsely charge-sheeted them. It is also the case of the union that the enquiry was not held in accordance with the principles of natural justice.

4. The union did not produce any documentary evidence to show that Johir Khan and Jumana Kahar were members of the committee and that one of them was also an office bearer, but they produced copies of certain petitions which were admitted by the management and to which one or both of these machine loaders were parties, having put their signatures or thumb impression. One such petition is Ext. 8 dated 9th November 1963 addressed to the manager complaining against non-issue of measurement slips. At the hearing however it is admitted on behalf of the union that machine loaders in any case are being given measurement slips by the management for the last year or two although witness No. 1 for the union added that the length of the lead was understated to minimise payment for lead. No evidence in support of this allegation was however produced. Ext. 9 is another petition dated 16th January 1965 addressed to the manager complaining that for the week ending 6th January 1964 their attendance had been noted for 5 days instead of 6 days for which they worked. Ext. 14 is a petition dated 27th April 1964 addressed to the Officer on Special Duty, Regional Labour Commissioner (C), Implementation, Dhanbad, regarding non payment of arrear lead dues. Robin Chatterjee's evidence is that after submission of this petition, by agreement before the Special Officer concerned, the management paid Rs. 30 per head to the machine loaders as arrear lead payment. This statement was challenged on behalf of the management, but even if the statement is true it is the case of Robin Chatterjee himself that the dispute over the arrear lead payment was settled by this agreement and payment was made in accordance with the agreement, so that no further dispute remains over that matter. Ext. 10 is a petition dated 30th July 1964 addressed to the manager complaining that on 29th July 1964 in the first shift the munshi had asked certain loaders to work at a place where working conditions were not suitable and that one Pardeshi Harijan, loader, slipped and was injured, and the manager was requested to take necessary steps for the safety of the loaders. Ext. 11 is another complaint jointly made by Johir Khan and Jumana Kahar and 15 others on 23rd September 1964, to the manager that on 22nd September 1964 the second shift workers of Incline No. 2 were laid off by the Asstt. Manager and that they were, therefore, entitled to their hazira for that day. This was replied by the manager on 24th September 1964 vide Ext. 12 stating that the complaint made in the letter of 23rd September 1964 was unfounded as there was actually a break down in the haulage in the incline in question and caused the lay off for the loaders. Another letter, Ext. 13, dated 4th February 1965 wherein Johir Khan and other loaders complained that on 4th February 1965 they were allotted an ayatan in the first shift but as the condition of roof of the ayatan was bad, the mining munshi shut the ayatan off by a fencing, and they were compelled to return, and in the circumstances they were entitled to full pay for the day. This was, however, a minor complaint and there is no reason to doubt that the manager took suitable action.

5. It does not appear from the above review of the petitions that the two machine loaders had any serious grievance which they were ventilating at the time before they received the chargesheets. The general complaint as to measurement slip made in 1963 has admittedly been remedied in the case of the machine loaders, and the complaint about arrear lead payment was also settled according to case of the union itself. The other complaints were specific complaints of what happened on particular days and there is no reason to think that the management might have any reason to be displeased with the two machine loaders for such petitions.

6. The important question is whether the enquiry in the case was properly held. The chargesheets, Ext. 1 and 1A, mention the charges specifically, stating that when Chuna Majhi was pushing his allotted tub, Johir Khan and Jumana Kahar abused him and snatched away the tub from him and that Johir Khan caught hold of Chatu Majhi by neck and Jumana Kohar hit him with a stick.

Though some complaint was made about the manner in which the enquiry was held, it appears that the five witnesses examined for the management, excepting only the Overman A. K. Chakravorty, were cross examined by the accused. Further, 3 witnesses for defence were produced and examined, namely, Khirodhan Harijan, Chabilal Harijan and Haripal Harijan. They only stated that they had seen or heard nothing, e.g., Chabilal Harijan said that when 6 tubs were pushed to the ayatan for distribution, he went away from there with his basket and that he knew nothing about the quarrel or the incident. As against that, there was the positive evidence of the overman, A. K. Chakravorty, the Asstt. Mining Sirdar, S. P. Bose and 3 coal cutters, examined namely Chuna Majhi who was assaulted, and Rosna Majhi and Nur Mohammad. They supported the case of the management that over a tub which had been allotted to Chuna Majhi the two machine loaders intervened and tried to snatch away the tub and that there was row over this and that Chuna Majhi was assaulted. Nor Mohammad's statement was not originally filed along with the rest of the record, Ext. A. When this defect was detected at the time of the hearing of the arguments on 23rd December 1966, the management undertook to produce the same on the very next day if available along with the papers brought to Calcutta, and on 24th December 1966 the Advocate for the management produced the two sheets containing the examination and cross examination of Nur Mohammad. Although Shri Parimal Das Gupta objected to the admission of the document at this stage, the objection was over-ruled because there is no reason to think that the document could have been fabricated at Calcutta, for neither Sadhan Babu the scribe nor Nur Mohammad had been brought to Calcutta in connection with the cases by the management. The evidence on the record fully supports the finding made by the enquiry officer and there is no reason, therefore, for the tribunal to interfere. Shri Das Gupta urged that the second charge relating to causing wilful damage to the work in progress was not proved. But this was only the consequential charge. The facts were stated in the chargesheet and then the two charges were framed, namely, for threatening, abusing and assaulting the co-worker Chunu Majhi, and thus holding up the pushing of a tub to the coal cutter's ayatan. In the circumstances, it cannot be said that the second charge was not established, although I may add that it was hardly necessary to mention the second charge in the chargesheet. Shri Das Gupta also urged that no medical evidence was produced as to Chunu Majhi's injury and there was 4 days' delay in serving the chargesheets on the two machine loaders and that in the circumstances the genuineness of the incident is open to doubt. It is clear that Chuna Majhi's injury was not serious enough to require medical attention and 4 days' delay in framing the chargesheets cannot be regarded as such delay as to show their falsity. In any case, the tribunal does not sit in appeal over the finding made at the domestic enquiry provided it is found that the enquiry was fairly conducted in accordance with the principles of natural justice. I find no evidence of violation of principles of natural justice in this case. Finally, Shri Das Gupta urged that the manager had no power to issue the chargesheet as he was not the final authority in the matter of dismissal and that approval was in fact not obtained from the owner or agent or C.M.E. I must however hold against Shri Das Gupta on both the points. The manager is the chief executive head at a colliery and it is his business to maintain discipline in accordance with the Standing Orders. Naturally, it is for him to issue the chargesheets for any misconduct by a workman under him. The order of approval in this case was signed by Shri K. N. Dutta, Director-in-charge, of the colliery. It has been pointed out that there is no evidence to show that Shri K. N. Dutta was appointed as nominated owner on the death of Bibhuti Bhushan Pal, by a resolution of the Board of Directors. But even as a Director-in-charge and one of the major owners, he can be considered to be an owner of the colliery. In this connection reference may be made to Sec. 76 of the Mines Act which provides that all or any of the Directors of a limited company owning a coal mine is liable as the owner. Accordingly, it cannot be said that approval from the proper authority in respect of the order of dismissal was not obtained.

7. I therefore find that the dismissal of Sarvashri Johir Khan and Jumana Kohar, Machine Loaders, by the manager with effect from 19th June 1965 was justified and therefore the workmen concerned are not entitled to any relief.

(Sd.) S. K. SEN,

Presiding Officer.

Dated, the 26th December, 1966.

[No. 8/133/65-LRII.]

S.O. 122.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, No. 2 Calcutta, in the industrial dispute between the employers in relation to the Toposi Colliery of Messrs Associated Nandi Collieries Limited, Post Office Toposi, District Burdwan and their workmen, which was received by the Central Government on the 29th December, 1966.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, CALCUTTA

REFERENCE No. 100 OF 1966

PARTIES:

Employers in relation to the Toposi Colliery, Dt. Burdwan.

AND

Their workmen.

PRESENT:

Shri S. K. Sen, Presiding Officer.

APPEARANCES:

On behalf of employers: Shri S. S. Mukherjee, Advocate.

On behalf of workmen: Shri Parimal Das Gupta.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By order No. 8/134/65-LRII dated 29th April, 1966, the Central Government referred for adjudication a dispute between the employers in relation to the Toposi Colliery, Dt. Burdwan, and their workmen in respect of the matter mentioned in the following schedule:

"Whether the dismissal of Shri Mohammad Mia, Pick Miner of Toposi Colliery is justified? If not, to what relief is the workman entitled?"

2. The charge against Mohammad Mia, Pick Miner, is that in the first shift of 9-3-65 at 8-9 Pits, he was cutting the corner of the pillar at the 6th level of No. 8 dip near which he had been assigned a working face by the Mining Sirdar, N. K. Paitandy. The mining sirdar detected Mohammad Mia doing such illegal act and asked him to stop doing so and thereupon Mohammad Mia took up a defiant attitude and abused the mining sirdar. Accordingly, on 10th March, 1965, a charge-sheet was drawn up and served on Mohammad Mia. Mohammad Mia submitted his reply on 11th March, 1965 denying the charges. An enquiry was held on 27th March, 1965, by Shri D. N. Kar, Labour Welfare Officer and K. Dey, Asstt. Manager, who were appointed as the members of the enquiry committee by the manager. The enquiry committee found both the charges proved and reported accordingly, to the manager by their report, dated 30th March, 1965. The manager after obtaining the approval of the director incharge passed an order of dismissal on 7th April, 1965.

3. The case of the union on behalf of the workmen concerned is that Mohammad Mia was a leading member of the unit of the union, Colliery Mazdoor Sabha, at Toposi Colliery, and he was elected Assistant Secretary of the unit and he had been taking a leading part in agitating against the grievances affecting the pick miners and that, therefore, the management was displeased with him and was on the look out for an opportunity of dismissing him; that on 9th March, 1965 Mohammad Mia complained to the manager, *vide* letter, marked Ext. 1, that the munshi and the mining babu had not been issuing measurement slips to him and that further there was delay in supplying tubs every day; that as a counter-blast a false charge-sheet was issued against Mohammad Mia; and that at the enquiry held on 27th March, 1965, the workman was not given proper opportunity to defend himself and that the Labour Officer threatened him and his witness Raghu Harijan with punishment, and the statements of the witnesses were not properly recorded in the language which the workman could understand; and that being dissatisfied with the enquiry the workman had in fact complained about it to the manager by a letter dated 27th March, 1965 (*vide* Ext. 8) but still in due course he was served with an order of dismissal. The further case of the union is that there was another proceeding against him started by chargesheet on 3rd December, 1964, when he was alleged to have assaulted a mining sirdar, Raghubir Ghose, and that the union moved the Conciliation Officer against the sentence then

imposed of 10 days' suspension, and that while the conciliation proceedings was still in progress, the proceeding for the alleged cutting of a corner of a pillar was instituted against him and the workman, Mohammad Mia, was dismissed in contravention of Section 33 of the Industrial Disputes Act.

4. As regards the point that Mohammad Mia was elected as Assistant Secretary of the Toposi unit of Colliery Mazdoor Sabha, the management challenged the evidence of Robin Chatterjee on the point and no documentary evidence in support of that contention was produced by the union. Mohammad Mia who deposed as witness on his own behalf, claimed also that he was working as Assistant Secretary of the Toposi unit committee. Even assuming that he was an office bearer of the unit of the union at Toposi colliery, the question for consideration is whether the workman concerned was dismissed after a fair enquiry for an offence committed by him or whether he was improperly dismissed on a false charge after an unfair enquiry. The charge relates to an incident which took place during the first shift of 9th March, 1965, that is the shift from 8 A.M. to 4 P.M. Mohammad Mia in his deposition before the Tribunal stated that on 9th March, 1965, he was on the shift from 8 A.M. and that at the end of the shift when he asked for measurement slip Paitandy babu refused to grant him the same and there was some exchange of words and thereafter he submitted the complaint, Ext. 1, on the same day. The chargesheet relates to an offence which was committed during that shift. If the trouble really was over the cutting of the face or corner of a pillar, Mohammad Mia knew that a chargesheet would be served against him and it would appear that he anticipated a chargesheet and submitted the letter, Ext. 1, in the afternoon of 9th March, 1965, to prepare a defence. In the circumstances, there is no reason to think that the chargesheet was a counter blast to a genuine complaint.

5. Both in the written statement filed before the Tribunal and in the complaint against the manner in which the enquiry was held, Ext. 8, it is mentioned that one Raghu Harijan was rebuked by the Labour Welfare Officer during the enquiry. But Mohammad Mia in the course of his deposition before the Tribunal did not say that he took Raghu Harijan as a witness for the defence and did not also say that Labour Officer had rebuked Raghu Harijan. He stated, on the other hand, that Labour Officer had rebuked Dabir Mia, one of the witnesses for the management when Dabir Mia first stated that he did not see Mohammad Mia cutting the pillar. In the circumstances, neither the original complaint of rebuking Raghu Harijan nor the subsequent complaint of rebuking Dabir Mia can be accepted. The record of the proceeding shows that no defence which was given by Mohammad Mia at the hearing. Further, it appears that each of the 5 witnesses examined by the management namely, N. K. Paitandy, Mining Sirdar, Shanti Ram Mondal, Munshi, Prodhan Majhi, Chatu Majhi and Dabir Mia, coal cutters, were cross examined by Mohammad Mia. Accordingly, there does not appear to be any substance in the contention that by rebuking him, the labour officer prevented him from cross examining the witnesses for the management. It may be mentioned that Mohammad Mia at first stated in his deposition before the Tribunal that he did not see Paitandy babu at the time of the enquiry, subsequently he stated that when he was cross examining Paitandy babu, the Labour Officer rebuked him and turned him out. I am not inclined to place any reliance on such contradictory evidence of the witness, but I accept the evidence of Shri D. N. Kar, who deposed before the Tribunal on behalf of the management and stated that the accused was given full scope to cross examine the witnesses and was not stopped at any stage by being rebuked. The evidence of the witnesses is sufficient to sustain both the charges against Mohammad Mia. There appears to be no circumstance supporting the contention of the union that because of his union activities a false case was started against Mohammad Mia.

6. The next point urged on behalf of the union is that during the pendency of a conciliation proceeding before the Conciliation Officer (C), Raniganj, in respect of the previous punishment of 10 days' suspension imposed on the basis of a chargesheet dated 3rd December, 1964, the subsequent dismissal order was made by the management and that, therefore, the order is hit by Section 33 of the Industrial Disputes Act. The points for consideration in this connection are, firstly, whether the order of dismissal was passed while the conciliation proceeding was still in progress and, secondly, whether the order of dismissal was on merits justified. As regards the first point, there is an averment made in the written statement of the union which was not specifically traversed in the written statement of the management; and there is also the evidence of Robin Chatterjee before the Tribunal that he took up the case before the Conciliation Officer but while the proceedings were going on, Mohammad Mia was dismissed; and as against that evidence the witness for the management D. N. Kar did not

make any assertion to the contrary. He admitted that after the order of 10 days' suspension, the matter was taken up by the Conciliation Officer and that at the request of the Conciliation Officer the management agreed to settle the matter by giving Mohammad Mia 8 days' wages at half rate; but he could not say whether the settlement was made before or after the order of dismissal which was passed on 7th April, 1965. In the circumstances it must be held that the order of dismissal was passed during the pendency of the conciliation proceedings and therefore, there was contravention of Section 33 of the Industrial Disputes Act, because admittedly the order of dismissal does not show that one month's wages was paid to the workman and that any application was made before the Conciliation Officer under Section 33(2)(b) of the Act for approval of the order.

7. But the contravention of Section 33 of the Act does not automatically entitle a workman to an order of reinstatement. This has been decided by the Supreme Court in several cases, e.g., AIR 1960 SC 160 (Punjab National Bank Limited V. their workmen) and AIR 1961 SC 689 (Delhi Cloth and General Mills V. Additional Industrial Tribunal). The Supreme Court decided that in a proceeding under Section 33A of the Industrial Disputes Act, the tribunal is to consider two questions, firstly, whether there has been a contravention of Section 33, and secondly, if there is a contravention, whether the order of an employer is justified; and if the order is justified nothing remains to be done. In the present case the workman concerned did not come up with an application under Section 33A of the Act, but went before the Conciliation Officer and ultimately on the failure of conciliation the matter has come up as a Reference case by the Government. All the more, therefore, a mere contravention of Section 33 of the Act does not entitle the workman to an automatic order for reinstatement. The question has to be considered whether the order of dismissal was justified on merits. It has already been found that the order was justified in the present case on merits. At most the workman, Mohammad Mia, may claim an order for payment of one month's wages to which he was entitled under the proviso of Section 33(2)(b) of the Industrial Disputes Act.

8. I therefore find that the order of dismissal of Mohammad Mia, Pick Miner of Toposi colliery, is justified; but because there was contravention of Section 33 of the Industrial Disputes Act, the Pick Miner in the case is entitled to one month's wages at the rate at which he was drawing immediately before the chargesheet was served on him and I direct that such payment be made within one month of the publication of this award.

No order is made as to costs.

(Sd.) S. K. SEN,

Dated, the 26th December, 1966.

Presiding Officer.

[No. 8/134/65-LRII.]

S.O. 123.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, No. 2 Calcutta, in the industrial dispute between the employers in relation to the Toposi Colliery, Post Office Toposi, District Burdwan and their workmen which was received by the Central Government on the 29th December, 1966.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, CALCUTTA

REFERENCE NO. 27 OF 1966

PARTIES:

Employers in relation to the Toposi Colliery, Dist. Burdwan,

AND

Their workmen.

PRESENT:

Shri S. K. Sen, Presiding Officer

APPEARANCES:

On behalf of employers—Shri S. S. Mukherjee, Advocate,

On behalf of workmen—Shri Parimal Das Gupta,

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By order No. 6/39/65-LR.II dated 23rd April 1965 the Government of India referred for adjudication an industrial dispute existing between the employers in relation to the Toposi colliery, Dist. Burdwan, and their workmen in respect of the following matter referred to in the schedule:

"Whether the action of the management of Toposi colliery in dismissing Shri Feku Jaiswara, Pick Miner is justified? If not, to what relief is he entitled?"

2. According to the management, Feku Jaiswara along with Biswanath Harijan and Ramraj Gorari on 8th April 1964 at about 10 p.m. at No. 8 & 9 Pit snatched away the tubs allotted to other pick miners namely, Chatu Majhi, Shiblal and others, abused them, and when the Mining Sirdar, Gopal Ch. Misra, intervened, he was also abused and threatened. Accordingly on 10th April 1964, Ramraj Gorari and Feku Jaiswara were served with chargesheets. Biswanath Harijan left the colliery of his own accord and therefore it was not necessary for the management to proceed against him. Feku Jaiswara submitted a reply to the chargesheet on 13th April 1964 denying all the allegations. An enquiry was held by Shri Dharendra Nath Kar, the Labour Welfare Officer, on 23rd April 1964. A report was submitted by him on 16th May 1964 wherein he found Feku Jaiswara, and also Ramraj Gorari guilty of the charges against them. The manager prepared a note on 23rd May 1964 and submitted the papers to the Director-in-charge, Bibhuti Bhushan Pal, who approved of the order of dismissal of Feku Jaiswara by his order dated 25th May 1964. Thereupon an order of dismissal was passed on Feku Jaiswara on 27th May 1964 stating that the dismissal would take effect from 2nd June, 1964. It may be mentioned that in respect of Ramraj Gorari the manager stated in his note that "Ramraj Gorari has seen me and expressed regret for his part in the incident and has promised good behaviour in the future." In the circumstances the manager did not recommend dismissal but only passed an order of suspension for 7 days in respect of Ramraj Gorari. It may be mentioned that a reference case relating to Toposi colliery was then pending before the Tribunal and therefore the management asked for approval of the order of dismissal of Feku Jaiswara under Sec. 33(2)(b) of the Industrial Disputes Act. Before the disposal of that application, however, the case then pending relating Toposi colliery was disposed of by the Tribunal and thereafter the Tribunal did not pass any order in respect of the application under Sec. 33(2)(b) of the Industrial Disputes Act but directed the parties to obtain a Reference to the Tribunal as an independent dispute. Thereafter the union tried conciliation proceedings but the conciliation proceedings failed, and ultimately the matter has come before the Tribunal.

3. The case of the union is that a false charge was made against Feku Jaiswara as he was a leading worker of the union. The union alleged that the enquiry was not held properly and that defence witnesses sought to be examined by Feku Jaiswara were not examined by the Enquiring Officer. It was also alleged that proper approval to the dismissal order had not been obtained.

4. On behalf of the management, -D. N. Kar, Labour Welfare Officer, who held the enquiry has deposed as witness No. 1, and Probhat Ranjan Ghose, the manager has deposed as witness No. 2. Witness No. 1 has denied the suggestion that the enquiry was not held by him in accordance with the legal procedure. He has proved his record of the enquiry, Ext. C. & D. Shri Parimal Das Gupta appearing for the Union has commented that Nanu Lal Majhi who deposed as witness in support of the management's case before the Enquiring Officer was not mentioned in the chargesheet as a person from whom a tub had been snatched away by Feku Jaiswara and others and that Shiblal who was mentioned in the chargesheet was not examined as witness. It may be pointed out in reply to this that the chargesheet did not say that tubs had been snatched away from Chatu Majhi and Shiblal only, but that tubs had been snatched away from Chatu, Shiblal and others. In the circumstances, the examination of another person, Nanu Majhi not mentioned expressly in the chargesheet cannot be held suspicious. The Mining Sirdar, Gopal Misra, and Chatu Majhi who are mentioned in the chargesheet, were examined at the enquiry. There was sufficient evidence in support of the charge and it is not for the Tribunal to sit in appeal over the finding made by the Enquiring Officer. As regards the allegation that defence witnesses brought by Feku Jaiswara were not examined, it appears that two defence witnesses were actually examined, namely Kataru Harijan and Syamdeo

Rabidas. They did not however support the case of Feku Jaiswara. Another witness mentioned, Jhabbu Harijan, could not be produced by Feku at the inquiry. There is therefore no substance in the contention that defence witnesses sought to be examined were not examined. Feku Jaiswara stated when questioned that he had stopped the tubs which were being delivered but he denied that he had abused anybody or attempted to assault anybody. The Enquiry Officer however held that all the charges against him, namely, snatching away tubs from other pick miners to whom they were allotted, abusing such pickminers and also abusing and threatening to assault the Mining Sirdar, were sufficiently proved. Shri Das Gupta has urged that dislocation of work mentioned in the chargesheet was not proved. But the Enquiry Officer observed in the course of his report that by snatching away the tubs allotted to others and creating a row, the workmen proceeded against caused dislocation of work. There is no reason to find fault with that finding which is an inference from proved facts.

5. Shri Das Gupta has next urged that there was discrimination against the workman inasmuch as Ramraj Gorari was let off with only 7 days suspension whereas Feku Jaiswara was dismissed. In this connection it has been urged that as Feku Jaiswara was a leading union worker, the management wanted to remove him. But Feku Jaiswara stated in his deposition before the Tribunal that he had been working for 2 years only at Toposi colliery. It has been pointed out that Feku Jaiswara joined others in submitting memorials to the Manager or to the Regional Labour Commissioner at Dhanbad. Ext. 9 is a joint petition dated 3rd February 1964 to the Manager, Toposi colliery, regarding non payment of empty pushing and lead payment and measurement slips. Ext. 10, dated 11th May 1964 is a memorial addressed to the Regional Labour Commissioner, Dhanbad, and to other authorities regarding coal seam at No. 8 pit being mixed up with big or small pieces of black stone and the management not making any allowance for the extra difficulties that the pick miners were having in that pit.

6. It may be that Feku Jaiswara although he had only 2 years service at his credit, was joining others in ventilating the grievances of the pick miners before the authorities, but in the present case, in view of the charges proved, it cannot be said that the order of dismissal was unjustified. As regards the charge of discrimination, there is the evidence of the manager who deposed as witness No. 2 that a few days before the enquiry was held by Shri D. N. Kar, Ramraj Gorari had come to him and asked to be excused and had given assurance for future good conduct. Mr. Das Gupta has urged if that was true the manager should have informed the Enquiring Officer and the Manager admitted that he did not do so. But, even for imposition of a lesser punishment, a formal enquiry was necessary and the Manager might have been influenced by that consideration. Admittedly Feku Jaiswara did not appear before the Manager and make any apology for his conduct; on the other hand, even after the enquiry he wrote letters making various allegations against the management.

7. Shri Das Gupta has also urged that there was delay in supply of tubs, and when some tubs came, Feku Jaiswara and others might have been annoyed if the Mining Sirdar allotted the tubs to other pick miners and not to them. There is nothing however to show that the Mining Sirdar was allotting the tubs to others out of turn, that is, that the Mining Sirdar was favouring others in any way. It may be conceded that there may be some annoyance due to delay in supply of tubs and in the circumstances the management might have considered a lesser punishment, but it cannot still be said that the punishment of dismissal was malafide.

8. Shri Das Gupta has also urged that the manager not having the final power of dismissal had not power to issue the chargesheet, and that the owner or agent or C.M.E. did not in fact approve of the order of dismissal in respect of Feku Jaiswara. The management however gave evidence to show that the Director-in-charge, Bibhuti Bhushan Pal, who gave approval to the order of dismissal was appointed a nominated owner by the Board of Directors of the colliery. Even if Bibhuti Bhushan Pal did not have a major share in the colliery, he was appointed agent of all the owners by being made "nominated owner", and therefore approval by him satisfies the Standing Orders. I see no substance in the contention that the manager had no power to issue the chargesheet. The manager is in charge of discipline in the colliery and is the Chief Executive Officer at the colliery. It is natural that he should issue the chargesheet in preference to anybody else.

9. In the circumstances, I hold that the dismissal of Feku Jaiswara with effect from 2nd June 1964 cannot be considered unjustified. Therefore, Feku Jaiswara is not entitled to any relief in this case.

(Sd.) S. K. SEN,
Presiding Officer.

Dated, 21st December, 1966.

[No. 6/39/65-LRII]

(Department of Labour and Employment)

ORDERS

New Delhi, the 3rd January 1967

S.O. 124.—Whereas the industrial disputes specified in the Schedule hereto annexed are pending before Shri Hemanta Kumar Choudhury, Presiding Officer, Industrial Tribunal, Bihar, Patna.

And, whereas, Shri Hemanta Kumar Choudhury has retired and on relinquishing the charge of the post of Presiding Officer, Industrial Tribunal, Patna, held by him, Shri S. C. Prasad, has assumed charge as Presiding Officer of the said Tribunal.

And, whereas for the ends of justice and convenience of parties, the disputes specified in the Schedule hereto annexed should be disposed of without further delay:

Now, therefore, in exercise of the powers conferred by section 7A and sub-section (1) of section 33B of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Shri S. C. Prasad as the Presiding Officer with headquarters at Patna and withdraws the proceedings in relation to the said disputes from Shri Hemanta Kumar Choudhury, Presiding Officer, Industrial Tribunal, Patna, and transfers the same to Shri S. C. Prasad, Industrial Tribunal, Patna, and transfers the same to Shri proceedings with the direction that the said Tribunal shall proceed with the re-trial of the undermentioned proceedings transferred to it and dispose of the same according to Law.

SCHEDULE

Sl. No.	Misc. case No. of the Tribunal	Misc. Judl. case No. of the Patna High Court	Name of the applicant	Name of the opposite party.
1.	25(c) of 1953	M.J.C. 41/64	The Tata Iron & Steel Co. Limited	Shri Samrathi
2.	25(c) of 1953	M.J.C. 40/64	-do-	Shri Bishwanath
3.	27(c) of 1953	M.J.C. 42/64	-do-	Shai Shanker
4.	28(c) of 1963	M.J.C. 39/64	-do-	Shri Hirangi

[No. 8/168/66-LRII]

S.O. 125.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Sasti Colliery, Nagpur and their workmen in respect of the matters specified in the Schedule hereto annexed:

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication:

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Jabalpur, constituted under section 7A of the said Act.

SCHEDULE

Whether Dr. W. K. Master, Medical Officer, Sasti Colliery had been correctly dismissed and if not to what relief is he entitled?

[No. 3/1/66-LRII.]

New Delhi, the 6th January 1967

S.O. 126.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Dutta's Central Kajora Colliery, Post Office Kajoragram, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, No. 2, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the dismissal of Sarvashri Ram Sarup Dusad and Jaydeb Bhattacharjee by the management of Dutta's Central Kajora Colliery, with effect from 3rd June, 1966, was justified? If not, to what relief are the workmen entitled?

[No. 6/95/66-LRII.]

S.O. 127.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Dalmiya Colliery, Post Office Salanpur, Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, No. 2, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the termination of service of Shri H. H. Mukherjee, Electric Supervisor of Dalmiya Colliery with effect from the 13th June, 1966 was justified? If not, to what relief is he entitled?

[No. 6/61/66-LRII.]

BALWANT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 4th January 1967

S.O. 128.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following Scheme further to amend the Calcutta Unregistered Dock Workers (Regulation of Employment) Scheme, 1957, the same having been previously published as required by the said sub-section, namely:—

1. This Scheme may be called the Calcutta Unregistered Dock Workers (Regulation of Employment) Amendment Scheme, 1967.

2. In the Calcutta Unregistered Dock Workers (Regulation of Employment) Scheme, 1957, after clause 11, the following clause shall be inserted, namely:—

"11-A. Suspension of supply of listed workers. If a listed employer fails to make the payment due from him under sub-clause (2) or sub-clause (6) of clause 11 or any other amount due and payable to the

Board in any other capacity or account within such time as may be prescribed by the Administrative Body, the Administrative Body shall serve a notice on the employer to the effect that, unless he pays his dues within three days from the date of receipt of the notice, the supply of listed workers to him shall be suspended. On the expiry of the notice period, the Administrative Body shall suspend the supply of listed workers to the defaulting employer until he pays his dues".

[No. 622/3/66-Fac. 2.]

S.O. 129.—In exercise of the powers conferred by sub-section (1) of section (4) of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following Scheme further to amend the Bombay Dock Workers (Regulation of Employment) Scheme, 1956, the same having been previously published as required by the said sub-section, namely:—

1. This Scheme may be called the Bombay Dock Workers (Regulation of Employment) Amendment Scheme, 1967.

2. In clause 51 of the Bombay Dock Workers (Regulation of Employment) Scheme, 1956, in sub-clause (5), after the word, brackets and figure "sub-clause (1)", the following words shall be inserted, namely:—

"or any other amount due and payable to the Board in any other capacity or account".

[No. 622/3/66-Fac. 3.]

S.O. 130.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following Scheme further to amend the Madras Dock Workers (Regulation of Employment) Scheme, 1956, the same having been previously published as required by the said sub-section, namely:—

1. This Scheme may be called the Madras Dock Workers (Regulation of Employment) Amendment Scheme, 1967.

2. In clause 52 of the Madras Dock Workers (Regulation of Employment) Scheme, 1956, in sub-clause (6), after the word, brackets and figure "sub-clause (1)", the following words shall be inserted, namely:—

"or any other amount due and payable to the Board in any other capacity or account".

[No. 622/3/66-Fac. 5.]

S.O. 131.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following Scheme further to amend the Madras Unregistered Dock Workers (Regulation of Employment) Scheme, 1957, the same having been previously published as required by the said sub-section, namely:—

1. This Scheme may be called the Madras Unregistered Dock Workers (Regulation of Employment) Amendment Scheme, 1967.

2. In the Madras Unregistered Dock Workers (Regulation of Employment) Scheme, 1957, after clause 11, the following clause shall be inserted, namely:—

"11-A. Suspension of supply of listed workers. If a listed employer fails to make the payment due from him under sub-clause (6) of clause 11 or any other amount due and payable to the Board in any other capacity or account within such time as may be prescribed by the Administrative Body, the Administrative Body shall serve a notice on the employer to the effect that, unless he pays his dues within three days from the date of receipt of the notice, the supply of listed workers to him shall be suspended. On the expiry of the notice period, the Administrative Body shall suspend the supply of listed workers to the defaulting employer until he pays his dues."

[No. 622/3/-Fac.(6).]

S.O. 132.—In pursuance of sub-section (4) of section 3 of the Mica Mines Labour Welfare Fund Act, 1946 (22 of 1946), the Central Government hereby publishes the following report of the activities financed from the Mica Mines Labour Welfare Fund during the year ending on the 31st March, 1966, together with a statement of accounts for that year and an estimate of receipts and expenditure of the said Fund for the year 1966-67.

PART I

1. *General.*—The Mica Mines Labour Welfare Fund has been constituted under the Mica Mines Labour Welfare Fund Act, 1946 (22 of 1946) for the financing of activities to promote the welfare of labour employed in the mica mining industry. Some of the major activities enumerated for this purpose are sanitation, medical facilities, housing, water supply, education, general improvement in the standard of living and recreational facilities.

2. The Act provides for the levy of a duty of customs on all mica exported from India upto a maximum rate of 6½ per cent *ad valorem*. The rate fixed for the present however is 2½ per cent *ad valorem*. The collections are allocated for expenditure on welfare measures among the various Mica producing areas in proportion to their average production.

3. The following welfare measures have so far been undertaken in Bihar, Andhra Pradesh and Rajasthan.

(i) *Improvement of medical facilities:*—

(a) *Hospitals.*—A 100 bed Central Hospital at Karma (Bihar), a 14 bed Hospital at Kalichedu (Andhra Pradesh) and a 30 bed Hospital at Gangapur (Rajasthan) continued to be maintained from the resources of the Fund. The bed strength of the Hospital at Tisri (Bihar) was raised from 15 to 30. A 50 bed T.B. Hospital at Karma (Bihar) continued to function. Construction of 12 bed T.B. Clinic at Tisri has just been completed and work on a 16 bed T.B. Ward attached to the hospital at Kalichedu is in progress. An inpatient ward for static dispensary at Talupur is also under construction.

(b) *Other medical facilities.*—Other medical institutions set up from the finances of the Fund comprise 5 static dispensaries, 3 mobile medical units, 7 ayurvedic dispensaries, 5 maternity and child welfare centres and 6 community centres in Bihar; 3 static dispensaries, one mobile dispensary, 2 ayurvedic dispensaries and 4 maternity centres in Andhra Pradesh; and 8 dispensary-cum-maternity and child welfare centres, 5 static allopathic dispensaries, 3 mobile medical units, and 12 ayurvedic dispensaries in Rajasthan.

A Health promotion Centre at Dhorakola in mica fields of Bihar continued to function. The Centre attends to the periodical medical check-up of mica miners and their families for detection of diseases (occupational or otherwise) in the early stages.

Eleven beds in T.B. Hospital, Nellore have been reserved for the exclusive use of mica miners and their families. Arrangement has been made for the treatment at the Tetulmari Leprosy Hospital of mica miners of Bihar who suffer from leprosy. The Fund made grants-in-aid to these institutions for the reservation of beds.

(c) *Assistance to T.B. Patients.*—A subsistence allowance at Rs 50 per month is being granted to the dependents of mica miners who are under treatment in the T.B. Ward attached to the Central Hospital Karma or at the T.B. Sanatorium, Ranchi. The Scheme of domiciliary treatment of T.B. and silicosis patients was also continued. The patients attending the out-door department of T.B. Hospital, Nellore were granted travelling allowance. A Rehabilitation-cum-convalescence Home set up in Bihar for workers cured of T.B. continued to function. Financial Assistance to mica miners suffering from T.B. by way of aid of Rs. 50 per month for six months for special diet was continued to be provided. The scheme of domiciliary treatment of T.B. Patients among mica miners was continued in Rajasthan.

(d) *Training.*—The mica miners in Andhra Pradesh are being trained in first aid.

(ii) *Educational facilities.*—Nine multipurpose institutes, each with an Adult Educational Centre and a Women's Welfare Centre, provide educational and recreational facilities to workers in Bihar. Training in handicrafts like sewing and knitting is given to women attending the Centres. Each institute serves as a training-cum-production Centre. One Community Centre is functioning in Andhra Pradesh where male workers learn carpentry in their leisure time. In two women's centres in Andhra Pradesh and seven centres in Rajasthan, girls and women workers are taught tailoring, stitching etc. Educational facilities for miners' children are being provided in 6 primary schools, 2 middle schools, 7 community centres and 9 feeder centres in Bihar; 2 primary schools, one middle school, 24 adult education centres and 5 feeder centres in Rajasthan; and 6 primary schools, two High schools (one with IX class only) in Andhra Pradesh.

In all the schools in Andhra Pradesh, children are provided with facilities like free mid-day meals, milk, books, slates, clothing. Milk, tiffins, books, slates clothing etc. are provided to the miners' children attending the Multipurpose Institutes, Community Centres and Schools in Bihar. The children attending the Multipurpose Institutes in Bihar are given baths daily for which oil and soaps are provided to the Institutes. Mid-day meals, books, slates and other stationery articles are supplied to the school-going children of mica miners in Rajasthan.

Four boarding houses in Bihar and two in Andhra Pradesh are being run for the children of mica miners studying in schools and colleges. A hostel has been set up at Gangapur (Rajasthan) for children of mica miners studying in Higher Secondary Schools.

Scholarships are granted to the children of mica miners studying in schools and colleges in Bihar and Rajasthan. Such scholarships are granted for both general and technical education. Mica Miners children studying in Schools are also granted tuition fee in Bihar.

(iii) *Recreation facilities.*—Four mobile cinema units, three in Bihar and one in Rajasthan give free shows in different minning centres; 22 Radio sets in Bihar; 29 in Andhra Pradesh and 24 in Rajasthan provide recreation to mica miners and their families. In Bihar the recreational facilities are provided at Multipurpose, Community and Feeder Centres. Outdoor and in-door recreational facilities are also provided at the centres, sub-centres and feeder centres in Rajasthan. Bhajan parties and recreational clubs have also been set up in different mining areas.

(iv) *Drinking water facilities.*—60 wells (55 in Bihar and 5 in Andhra Pradesh) have been constructed by the Fund. 12 more wells are being constructed in Bihar. Eleven additional wells (three in Bihar and eight in Andhra Pradesh) have been sunk under the subsidy Scheme under which the mine owners who sink wells get a subsidy equal to Rs. 7,500 per well or 75 per cent of the cost of construction whichever is less. The construction of four more wells under this scheme is in progress in Andhra Pradesh. 8 wells are being sunk in Rajasthan through Zilla Parishads and 90 per cent of the cost of these wells is to be met from the Fund. A dam has also been constructed in Bihar.

(v) *Housing facilities—*

(i) *Low Cost Housing Scheme.*—As there was no response to the various earlier housing schemes introduced from 1953, a low-cost housing scheme for construction of 500 low-cost houses costing about Rs. 1,300 each, was sanctioned in July, 1962, for Bihar region. The ceiling cost of houses under the scheme has been raised from Rs. 1,300 to Rs. 1,600. The Houses constructed at the cost of the Fund will be handed over to mine owner who, besides being responsible for their maintenance, will pay a nominal rent of Re. 1 to Rs. 2 per month per house and allot the houses free of rent to the mica miners.

(b) *Departmental Colonies.*—In addition to the above scheme, a colony consisting of 50 two-room houses has been constructed at Jorasmar (Bihar). Construction of 48 houses is in progress at Domchanch. 9 more colonies comprising 266 such houses stand sanctioned and their construction is to start soon. A colony of 50 houses is proposed to be constructed near Shah mine Sydapuram (Andhra Pradesh) for mica miners. These houses will be let out to mica miners free of rent through mine owners who will pay a nominal rent to the Fund.

(c) *'Build Your Own House' Scheme.*—The scheme envisages financial assistance in the form of cash or building material to the mica miners to the extent of Rs. 400 for the purpose of improving their village houses.

Technical assistance in the matter will be provided by the Fund. Five hundred houses have been sanctioned under the scheme for Bihar. 24 mica miners have been allowed this benefit.

- (vi) *Financial help in case of accidents.*—The scheme relating to the grant of financial assistance from the Fund to the widows and children of mica miners who die as a result of accidents was continued.
- (vii) *Consumers' Cooperative Stores.*—One wholesale (Central) Consumers' Cooperative store with its seven branches and seven primary stores in Bihar and four primary consumers' cooperative stores in Andhra Pradesh and six in Rajasthan set up with the Assistance of the Fund continued to supply consumers' goods at reasonable prices to the mica mining population.

PART II]

Statement of Accounts for the year 1965-66

Receipts		Expenditure*	
	Rs.		Rs.
Opening balance on the 1st April, 1965		Andhra Pradesh	6,62,137
	1,92,88,387	Bihar	20,79,281
*Receipts during the year	30,73,213	Rajasthan	6,94,735
		Closing balance	1,89,25,447
	2,23,61,600		2,23,61,600

*Provisional.

PART III

**Estimates of Receipts and Expenditure for the year 1966-67*

Receipt		33,00,000
Expenditure	Andhra Pradesh	7,00,000
	Bihar	20,00,000
	Rajasthan	6,00,000

*Accepted for Budget estimates for 1966-67.

[No. 2(5)66-MILL.]

K. D. HAJELA, Under Secy.

(Department of Labour and Employment)

New Delhi, the 4th January 1967

S.O. 133/PWA/Sec.7(2)(e)/66.—In pursuance of clause (e) of sub-section (2) of section 7, read with section 24 of the Payment of Wages Act, 1936 (4 of 1936), the Central Government hereby authorises, in respect of persons employed on the Northeast Frontier Railway, deductions to be made from the wages of such persons on account of contribution to the Northeast Frontier Railway Employees Benevolent Fund that may be constituted with the approval of the Ministry of Railways. The Central Government further imposes the following conditions under section 11 of the said Act, namely :—

- (i) that adequate subsidy shall be paid from the public funds to the said Fund;
- (ii) that no deduction shall be made from the wages of an employee unless he has communicated his acceptance in writing to the deduction, such

acceptance being given once generally and not necessarily on each occasion a deduction is made:

- (iii) that deductions to be made in the case of each of the officers of any of the categories mentioned in the entry on the left hand side below shall not exceed the amount shown in the corresponding entry opposite to it:

Administrative Officers	Rs. 2.00 per mensem.
Other Officers	Re. 1.00 per mensem.
Class III and Class IV Officers	Re. 0.50 per mensem.

- (iv) that a proper constitution of the said Fund shall be drawn up and approved by the Ministry of Railways and any amendment to the constitution shall also be approved by the Ministry of Railways before it is made effective; and

- (v) that the maximum limits of total deductions as provided under sub-section (3) of section 7 of the Act shall not be exceeded.

[No. 543/8/66-Fac.]

VIDYA PRAKASH, Dy. Secy.

(Department of Labour and Employment)

ORDER

New Delhi, the 3rd January 1967

S.O. 134.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Calendonian Insurance Company, New Delhi and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri Ishwar Das Pawar shall be the Presiding Officer, with headquarters at Chandigarh and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

1. Whether the benefits of gratuity and leave given by the Calendonian Insurance Company, New Delhi to the peons and drivers employed by them need improvement?
2. If so, to what extent and from what date?

[No. 70(1)/66-LRIV.]

A. L. HANDA, Under Secy.

MINISTRY OF COMMERCE

New Delhi, the 6th January 1967

S.O. 135.—In exercise of the powers conferred by section 6 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), the Central Government hereby makes the following amendment in the notification of the Government of India, Ministry of Commerce S.O. 28, dated the 24th December, 1965, namely:—

In the said notification, for the words “for conducting trading in non-transferable specific delivery contracts in groundnut kernel”, the words “in respect of forward contracts in groundnut kernel” shall be substituted.

[No. 32(36)Com. Gen.(FMC)/64.]

S.O. 136.—In exercise of the powers conferred by section 6 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), the Central Government hereby

makes the following amendment in the notification of the Government of India, Ministry of Commerce S.O. 29, dated the 24th December, 1965, namely:—

In the said notification, for the words "for conducting trading in non-transferable specific delivery contracts in groundnut oil", the words "in respect of forward contracts in groundnut oil" shall be substituted.

[No. 32(36)Com. Gen (FMC)/64.]

New Delhi, the 7th January 1967

S.O. 137.—The following amendment to the rules of the Surendranagar Cotton, Oil and Oilseeds Association Limited, Surendranagar, made by that Association in exercise of the powers conferred by sub-section (1) of section 8A of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), and approved by the Central Government is hereby published by that Government as required by sub-section (2) of the said section, namely:—

In the Articles of Association of the Surendranagar Cotton, Oil and Oilseeds Association Limited, Surendranagar,

In Article 4,—

after the clause relating to the definition of "Members", add the following paragraph, namely:—

"'Ring' means a centre having for its working a membership of not less than twentyfive persons and carrying on, under the auspices of the Association, trade in respect of Kapas, Cotton, Cottonseeds, Groundnut Kernels, Groundnut whole, Groundnut Oil, Oilcakes and other Oilseeds and other allied commodities as may be approved by the Forward Markets Commission from time to time".

[No. 34(5)Com. Gen.(FMC)/64.]

M. L. GUPTA, Under Secy.

